



Town of Frederick
Board of Trustees Agenda
Frederick Town Hall
401 Locust Street
Tuesday, January 13, 2015

6:30 P.M.
Work Session
General Discussion

7:00 P.M.
Regular Meeting

Call to Order – Roll Call:

Pledge of Allegiance:

Approval of Agenda:

Special Presentations:

DRCOG Presentation – Jennifer Schaufele, Executive Director

CACP Presentation – Lt. Frank Acosta, Brighton PD

Public Comment: This portion of the Agenda is provided to allow members of the audience to provide comments to the Town Board. Please sign in and the Mayor will call you. If your comments or concerns require an action, that item(s) will need to be placed on a later Agenda. Please limit the time of your comments to three (3) minutes.

Staff Reports:

- A. Administrative Report – Matt LeCerf, Town Manager
- B. Town Clerk’s Report – Meghan Martinez, Town Clerk

Consent Agenda: Consent Agenda items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda Items unless a Board member so requests, in which case the item may be removed from the Consent Agenda and considered at the end of the Consent Agenda

- C. Approval of December 9, 2014 Minutes – Meghan Martinez, Town Clerk
- D. Approval of December 11, 2014 Minutes – Meghan Martinez, Town Clerk

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- E. Resolution 15R1 Setting the Posting Place for Town of Frederick Meeting Agendas – Meghan Martinez, Town Clerk
- F. Ordinance 1186 Amending Section 10-12 Court Surcharge – Matt LeCerf, Town Manager
- G. Resolution 15R2 Adopting a Capital Improvement Plan for 2015 Budget Year – Matt LeCerf, Town Manager
- H. Agreement with New Consolidated Lower Boulder Reservoir and Ditch Company for the Layton Lateral Flow Measurement Improvements – Richard Leffler, Engineering and Utilities Director
- I. Consideration of Awarding a Contract for the 1st Street Non-Potable Water Main Extension Project – Richard Leffler, Engineering and Utilities Director

Action Agenda:

- J. Ordinance 1187 Authorizing the Issuance of the Towns Sales and Use Tax Revenue Refunding Bonds, Series 2015 – Matt LeCerf, Town Manager
- K. Consideration of Approval of a Bid for New Coal Ridge Ditch Company Water Shares – Richard Leffler, Engineering and Utilities Director
- L. Consideration of the 10th Interim Agreement with Northern Colorado Water Conservancy District for Participation in the Northern Integrated Supply Project – Richard Leffler, Engineering and Utilities Director

Mayor and Trustee Reports:

Executive Session:

To discuss the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest under C.R.S. Section 24-6-402(4)(a) regarding property acquisition.

Work Session: General Discussion



TOWN OF FREDERICK MEMORANDUM

TO: Honorable Mayor Tony Carey and Board of Trustees

FROM: Meghan Martinez, Town Clerk

DATE: January 9, 2015

SUBJECT: Town Clerk Report

- Frederick Arts Commission – The Commission met with Kathy Wardle on January 5th to get the ball rolling on the Grape Crusher Sculpture. They will be meeting on January 12th to finalize the pose and are in the process of finalizing a timeline for the project.
- Liquor Licensing – Processing three license renewals.
- Business License Renewals – End of the year license renewals are still coming in. Processing penalty billing and finalizing end of year reports.
- Leadership Weld County – Attended both the December 11, 2014 and January 8, 2015 sessions of Leadership Weld County.
- Codification – We will begin codification of the Frederick Municipal Code within the next few weeks. Code updates should be available for staff by the end of January.
- Community BBQ Tour – I am working with HOAs to assist the Community Relations Department in scheduling the 2015 BBQ Tour. I have received positive responses and hope to have responses from the HOAs soon.
- Board Calendar – A draft of the 2015 meeting/event calendar has been put together. I am waiting to add the BBQ Tour schedule and it will be available on dropbox as well as on the website.
- Municipal Code Updates – I have been working with Mayor Pro Tem Brown to identify areas of the municipal code that need to be cleaned up. We have identified a number of areas and will be bringing those to the Board on the 27th.

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**REGULAR BOARD MEETING MINUTES
TOWN OF FREDERICK BOARD OF TRUSTEES
Frederick Town Hall, 401 Locust Street
Tuesday, December 9, 2014**

At 6:30 P.M. Mayor Carey called the meeting to order and requested roll call.

Roll Call

Present were Mayor Carey, Mayor Pro Tem Brown and Trustees Skates, Schiers, Burnham and Hudziak. Also present were Town Manager Matt LeCerf, Town Attorney Rick Samson, and Town Clerk Meghan Martinez. Trustee Payne was not present.

Pledge of Allegiance: Mayor Carey invited everyone to join in the Pledge of Allegiance.

Executive Session: Motion by Trustee Burnham and seconded by Mayor Pro Tem Brown to go into executive session for a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) related to the Fire District Exclusion Litigation and for a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) related to the Electric Utility. Upon roll call vote, motion passed unanimously.

At 7:40 P.M. Mayor Carey called the regular meeting of the Board of Trustees to order.

At 7:45 P.M. Mayor Carey recessed the meeting of the Board of Trustees and convened the meeting of the Liquor Licensing Authority.

Consideration of Renewal of The Smokehouse Liquor License: Town Prosecutor Kristin Brown discussed the application and was available for questions from the Authority. Applicants Matt Alexander and Nick Reckinger addressed the Authority. Motion by Authority Member Schiers and seconded by Authority Member Brown to approve the renewal of The Smokehouse Hotel Restaurant Liquor License. Upon roll call vote, motion passed 6-0.

At 7:47 P.M. Chairman Carey adjourned the meeting of the Liquor Licensing Authority and reconvened the meeting of the Board of Trustees.

Approval of Agenda: Item G was removed from the agenda.

Public Comment:

Dick Wyatt, 3601 Morningside Circle Frederick, Colorado voiced his opposition to the proposed United Power acquisition.

Carl Brady, 9036 Harlequin Circle, voiced his opposition to the proposed United Power acquisition.

Scott Jeffres, 5671 CR 19 Fort Lupton, Colorado expressed his concern regarding the Highway 52 annexation.

Administrative Report: Town Manager Matt LeCerf provided a written report to the Board.

Town Clerk's Report: Town Clerk Meghan Martinez provided a written report to the Board.

Town Attorney's Report: Town Attorney Rick Samson provided a written report to the Board.

Consent Agenda:

Motion by Mayor Pro Tem Brown and seconded by Trustee Schiers to approve the consent agenda which included the following items.

- November 11, 2014 Minutes
- List of Bills from November 1 – November 28, 2014
- Ordinance 1185 Amending Section 13-44 of the Frederick Municipal Code Adding Provisions for a Fee for Reading Electric Meters When Customer Opt's Out of the AMI System
- Resolution 14R51 Adding the Electric Meter Reading Opt Out Fee to the Fee Schedule

Upon roll call vote, motion passed unanimously.

Action Agenda:

Resolution 14R50 Appointment of the Wildflower Metropolitan District No. 2 Board of Directors: Planning Director Jennifer Simmons introduced Special Counsel Rick Kron, 1700 Lincoln Street, Suite 2000 Denver, CO who discussed the proposed resolution. Motion by Trustee Schiers and seconded by Trustee Skates to approve Resolution 14R50. Upon roll call vote, motion passed unanimously.

Public Hearing Resolution 14R49 Approving the Service Plan for the Westview Metropolitan District: Planning Director Jennifer Simmons presented the proposed resolution. Special Counsel Rick Kron discussed the service plan and was available to answer questions. Marianne McGreedy appeared on behalf of the District. The developer was also present and available to answer questions.

At 8:37 p.m. Mayor Carey opened the public hearing.

At 8:38 p.m. Mayor Carey closed the public hearing.

Motion by Trustee Burnham and seconded by Trustee Skates to approve Resolution 14R49 w/ the condition that the roll off be removed. Upon roll call vote, motion passed 3-2 with Trustees Schiers and Hudziak voting no.

Consideration of a Proposal for Exception to Public Improvements Security for Westview Subdivision: Engineering and Utilities Director Richard Leffler discussed the proposed exemption. The applicant was present. Motion by Trustee Burnham and seconded by Trustee Skates to approve the exception to the public improvements security for Westview Subdivision. Upon roll call vote, motion passed 3-2 with Trustees Hudziak and Schiers voting no.

Ordinance 1184 Amending Article VIII, Section 4-161 of the Frederick Municipal Code Entitled "Frederick High School Scholarship Program": Town Clerk Meghan Martinez presented the proposed ordinances and discussed the proposed change in scholarship amount from \$1,000 to

\$1,500. Motion by Trustee Burnham and seconded by Trustee Skates to approve Ordinance 1184 to apply to all eligible scholarship recipients and those who are current scholarship holders. Upon roll call vote, motion passed unanimously.

Resolution 14R52 Amending the Fee Schedule for Single Source Trash Service: Town Manager Matt LeCerf presented the proposed resolution. Motion by Trustee Burnham and seconded by Mayor Pro Tem Brown to approve Resolution 14R52. Upon roll call vote, motion passed unanimously.

Resolution 14R53 Emergency Services to the Coal Ridge Annexation: Town Manager Matt LeCerf presented the proposed resolution. Motion by Mayor Pro Tem Brown and seconded by Trustee Schiers to approve Resolution 14R53. Upon roll call vote, motion passed unanimously.

Resolution 14R54 Emergency Services to the Schillinger Annexation: Motion by Mayor Pro Tem Brown and seconded by Trustee Skates to approve Resolution 14R54. Upon roll call vote, motion passed unanimously.

Resolution 14R55 Emergency Services to the Schillinger Annexation: Motion by Mayor Pro Tem Brown and seconded by Trustee Schiers to approve Resolution 14R55. Upon roll call vote, motion passed unanimously.

Discussion Agenda:

Water Rates: Town Manager Matt LeCerf presented the comparison of water rates with neighboring communities. He highlighted items coming up for the water fund. The board requested a work session be scheduled in the spring to discuss water rates.

Mayor and Trustee Reports:

Trustee Schiers: Thanks to staff for the tree lighting. It was a wonderful event.

Trustee Skates: Thanks to staff for the tree lighting. The Help Center was very grateful for the donations. The Empty Bowls Project fed 260+ people. The Help Center 2nd Anniversary will take place in March.

Trustee Hudziak: She attended the DBA meeting and had the opportunity talk with St. Brigits about their plans for subsidized senior housing.

Trustee Burnham: He acknowledged the recent loss of youth in the community and praised the efforts of the community in coming together. He specifically thanked Georgia Boys for their efforts.

Mayor Pro Tem Brown: The tree lighting was a really great night. She also attended the Empty Bowls event and it was a lovely event.

Mayor Carey: He asked for an update to the Highway 52 Annexation.

There being no further business of the Board, Mayor Pro Tem Brown closed the meeting at 9:43 P.M.

Approved by the Board of Trustees:

ATTEST:

Tony Carey, Mayor

Meghan C. Martinez, Town Clerk

**SPECIAL BOARD MEETING MINUTES
TOWN OF FREDERICK BOARD OF TRUSTEES
Frederick Town Hall, 401 Locust Street
Thursday, December 11, 2014**

At 7:00 P.M. Mayor Carey called the meeting to order and requested roll call.

Roll Call

Present were Mayor Carey, Mayor Pro Tem Brown and Trustees Schiers and Skates. Also present were Town Manager Matt LeCerf and Town Clerk Meghan Martinez. Trustees Payne, Burnham, and Hudziak were not present.

Public Comment:

Carl Brady, 9036 Harlequin Circle Frederick, CO asked a few questions regarding the proposed 2015 budget. He outlined a few questions regarding the electric fund. Mayor Carey asked that Town Manager Matt LeCerf address the question during the 2015 Budget Agenda Item.

Scott Jeffres, 5671 CR 19 Fort Lupton, Colorado expressed his concern regarding the Highway 52 annexation.

Resolution 14R56 Adoption of the 2015 Budget: Finance Director Mitzi McCoy presented the proposed resolution adopting the 2015 Budget.

At 7:11 P.M. Mayor Carey opened the public hearing. Carl Brady addressed the Board again regarding his questions related to the electric fund. Town Manager Matt LeCerf discussed the revenues, budget line items, and fund balance.

At 7:18 P.M. Mayor Carey closed the public hearing.

Motion by Mayor Pro Tem Brown and seconded by Trustee Schiers to approve Resolution 14R56. Upon roll call vote, motion passed unanimously.

Resolution 14R57 Setting the 2015 Mill Levy: Finance Director Mitzi McCoy presented the proposed resolution. Motion by Mayor Pro Tem Brown and seconded by Trustee Schiers to approve Resolution 14R57. Upon roll call vote, motion passed unanimously.

Resolution 14R58 Intent to Annexation East Highway 52 Annexations 1-3: Planning Director Jennifer Simmons presented the proposed resolution.

At 7:22 P.M. Mayor Carey called for a 5 minute break.

At 7:31 P.M. Mayor Carey reconvened the meeting.

Motion by Trustee Schiers and seconded by Mayor Pro Tem Brown to approve Resolution 14R58. Upon roll call vote, motion passed unanimously.

At 7:33 P.M. Trustee Payne joined the meeting.

Mayor and Trustee Reports:

Trustee Payne: Nothing at this time.

Trustee Skates: Nothing at this time.

Trustee Hudziak: She attended the DBA meeting and had the opportunity talk with St. Brigits about their plans for subsided senior housing.

Trustee Burnham: He acknowledged the recent loss of youth in the community and praised the efforts of the community in coming together. He specifically thanked Georgia Boys for their efforts.

Mayor Pro Tem Brown: The tree lighting was a really great night. She also attended the Empty Bowls event and it was a lovely event.

Mayor Carey: Motion by Trustee Schiers and seconded by Trustee Payne to authorize the Mayor to sign a resolution of support for the City and County of Denver's National Western Center Project. Upon roll call vote, motion passed unanimously.

There being no further business of the Board, Mayor Pro Tem Brown closed the meeting at 7:34 P.M.

Approved by the Board of Trustees:

ATTEST:

Tony Carey, Mayor

Meghan C. Martinez, Town Clerk



TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tony Carey, Mayor

Laura Brown, Mayor Pro Tem
Rafer Burnham, Trustee
Fred Skates, Trustee

Amy Schiers, Trustee
Gavin Payne, Trustee
Donna Hudziak, Trustee

Resolution Setting the Posting Place for Town of Frederick Meeting Agendas

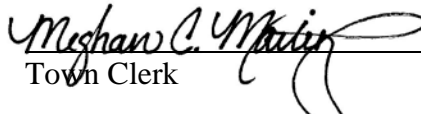
Agenda Date: Town Board Meeting – January 13, 2014

Attachments: a. Resolution 15R1

Finance Review: Not Applicable

Finance Officer

Submitted by:


Town Clerk

Approved for Presentation:


Town Manager

Summary Statement:

Colorado Revised Statutes requires, annually, the Town adopt a resolution setting the posting places for the Town Board meeting agendas.

Detail of Issue/Request:

The attached Resolution designates the posting places required by State Statute will be the Frederick Town Hall, the Frederick Post Office and Town of Frederick Website for 2015. The posting places are identical to the 2014 locations.

Legal/Political Considerations:

None.

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Alternatives/Options:

This is a State requirement therefore; no alternatives or options are available.

Financial Considerations:

N/A

Staff Recommendation:

Adopt the resolution as presented.

RESOLUTION NO. 15R1

**A RESOLUTION ESTABLISHING THE POSTING PLACE FOR
FREDERICK BOARD OF TRUSTEE MEETING AGENDAS FOR 2015**

WHEREAS, C.R.S. 24-6-402(2)(c) requires that the Board of Trustees designate public place(s) for posting notice of meetings of any local public body, at the first public meeting as defined by the Statutes.

WHEREAS, C.R.S. 24-6-402 (2)(c) also requires the notice of the meeting to be posted no less than 24 hours prior to the holding of the meeting; and

WHEREAS, the Town previously established posting places for Board of Trustee meeting agendas; and

WHEREAS, the Town wishes to affirm these same established posting places for the year 2015.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, COLORADO, AS FOLLOWS:

Section 1. The posting places for Board of Trustee Meeting Agendas will be as follows:

Town Hall, 401 Locust Street

Frederick Post Office, 411 Oak Street

Town of Frederick Website www.frederickco.gov

INTRODUCED, READ, PASSED AND ADOPTED THIS 13TH DAY OF JANUARY, 2015.

TOWN OF FREDERICK

ATTEST:

By _____
Tony Carey, Mayor

By _____
Meghan C. Martinez
Town Clerk



TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tony Carey, Mayor

Laura Brown, Mayor Pro Tem
Rafer Burnham, Trustee
Fred Skates, Trustee

Amy Schiers, Trustee
Gavin Payne, Trustee
Donna Hudziak, Trustee

An Ordinance Amending Section 10-12 of the Frederick Municipal Code, Court Surcharge

Agenda Date: Town Board Meeting - January 13, 2015

Attachments: a. Ordinance No. 1186

Finance Review:

Finance Director

Submitted by:



Town Manager

Approved for Presentation:



Town Manager

☐ Quasi-Judicial

☒ Legislative

☐ Administrative

Summary Statement:

The proposed change to the court surcharge fee would make the accountability and budgeting of this revenue more transparent, and would be approved annually by the board during the regular budget adoption.

Detail of Issue/Request:

The current municipal court surcharge fund is structured such that the use of the surcharge collected is for unbudgeted costs for municipal court and police department purposes. This causes a problem in that each year it enables for potential budget amendments on an annual basis. The proposed change in the ordinance would allow court surcharge revenue to be budgeted annually for various purposes that are outlined in the permitted uses existing in the Frederick Municipal Code Section 10-12. This helps to ensure better transparency when those revenues are being used, and how they are being used for the betterment of the organization. Generally, individuals will not be subject to the surcharge fee, unless they are issued a citation.

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Legal/Political Considerations:

Alternatives/Options:

The board may choose to leave the term unbudgeted costs where referenced in section 10-12 leaving the code section as it stands.

Financial Considerations:

This change will create more transparency and accountability into the budgetary processes well as allowing us to better track revenues and the expenditures associated with the surcharge fund.

Staff Recommendation:

The staff recommends approval of the ordinance as presented.

TOWN OF FREDERICK, COLORADO
ORDINANCE NO. 1186

**AN ORDINANCE OF THE TOWN OF FREDERICK, COLORADO, AMENDING
SECTION 10-12 OF THE *FREDERICK MUNICIPAL CODE*, COURT SURCHARGE**

WHEREAS, in an effort to strengthen the Town's financial tracking, budget accountability and to limit unnecessary budget amendments this amendment will allow a specific line item for "surcharge expenses" by removing the term "unbudgeted".

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, COLORADO, AS FOLLOWS:

Section 1. 10-12(c) of the *Frederick Municipal Code* is hereby amended by the deletion of Section 10-12(c), in its entirety and re-enactment to read as follows:

"Sec. 10-12(c) The primary use of the surcharge collected shall be to fund costs of the Municipal Court and Police Department, including but not limited to the Weld County Dispatch Center, the Juvenile Assessment Center, the Weld County Drug Task Force, the Restorative Justice program and training and equipment needs of both departments."

Section 2. Effective Date. This ordinance shall be published and become effective as provided by law.

Section 3. Severability. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Town Board hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases are declared invalid.

Section 4. Repealer. All ordinances or resolutions and motions of the Board of Trustees of the Town of Frederick or parts thereof, in conflict with this ordinance are to the extent of such conflict hereby superseded and repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance, resolution or motion, nor revive any ordinance, resolution or motion thereby.

**INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED THIS 9TH DAY
DAY OF DECEMBER, 2014.**

ATTEST:

TOWN OF FREDERICK

Meghan C. Martinez, Town Clerk

By _____
Tony Carey, Mayor



TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tony Carey, Mayor

Laura Brown, Mayor Pro Tem
Rafer Burnham, Trustee
Fred Skates, Trustee

Amy Schiers, Trustee
Gavin Payne, Trustee
Donna Hudziak, Trustee

A Resolution to Adopt the 2015 – 2019 Capital Improvement Plan for the 2015 Budget

Agenda Date: Town Board Meeting - January 13, 2015

Attachments:

- a. Resolution 15R2
- b. 2015-2019 Capital Improvement Plan

Finance Review:

Finance Director

Submitted by:



Town Manager

Approved for Presentation:



Town Manager

☐ Quasi-Judicial

☐ Legislative

☒ Administrative

Summary Statement:

The proposed document is presented for your consideration and would approve the 2015-2019 Capital Improvement Plan.

Detail of Issue/Request:

The item presented is the 5-Year Capital Improvement Plan for consideration. This document was developed for the current year based on the approved fiscal year 2015 budget and further defined in future years based on the needs of the organization and the anticipated improvements and capital items in future years for infrastructure, facilities, and equipment.

The following 4 years are based on an assessment of needs as we move forward and can anticipate capital items. This document will also serve to assist with monitoring of long term planning and implementation of goals and objectives for the 2015 fiscal year. The document also assists with financial planning moving forward and will be provided as a needed document in the proposed refinancing of the Colorado Boulevard Bond.

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This is a living and active document that should be reviewed for support and concurrence as we look into future years during the year and I look forward to modifying this document with the Board as the priorities and direction from the Board change.

Legal/Political Considerations:

Not Applicable

Alternatives/Options:

Passage is not critical, but helps layout the long-term direction of the organization with respect to capital projects and financial planning.

Financial Considerations:

Planning for the future means recognizing goals and preparing to meet the financial needs of the outcomes included in this document.

Staff Recommendation:

Staff recommends adoption of the 2015 – 2019 Capital Improvement Plan and associated Resolution.

TOWN OF FREDERICK, COLORADO

2015 - 2019 Capital Improvement Plan

PROJECTS BY DEPARTMENT

DEPARTMENT	PROJECT NAME	FUND	FY '15	FY '16	FY '17	FY '18	FY ' 19	Total
Administration	Banners and Downtown Enhancements	General Fund	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 100,000
Administration	I-25 Overpass Project	General Improvement District		\$ 250,000	\$ 750,000	\$750,000		\$ 1,750,000
Administration	Server Replacement	General Fund	\$ 30,000	\$ 32,000				\$ 62,000
Administration	Cargo Van for Event Material Transportation/Stroage	General Fund		\$23,000				\$ 23,000
Administration	Gateway Project	General Fund		\$ 550,000				\$ 550,000
ADMINISTRATION TOTAL			\$ 50,000	\$ 875,000	\$ 770,000	\$ 770,000	\$ 20,000	\$ 2,485,000
Engineering & Utilities	Norther Integrated Supply Project (NISP)	Water Fund	\$ 228,000	\$ 228,000	\$ 935,000	\$ 7,375,000	\$ 7,488,000	\$ 16,254,000
Engineering & Utilities	Godding Hollow Project*	Storm Water Fund, Park Fund, Street & Alley	\$2,565,000	\$ 2,565,000				\$ 5,130,000
Engineering & Utilities	Sign Replacement Program	Street & Alley Fund	\$ 20,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 80,000
Engineering & Utilities	Pavement Maintenance Program	Street & Alley Fund	\$50,000	\$ 550,000	\$ 650,000	\$ 750,000	\$ 750,000	\$2,750,000
Engineering & Utilities	Curb & Gutter Maintenance	Street & Alley Fund	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 75,000
Engineering & Utilities	Bella Rosa Parkway Improvement*	Storm Water Fund	\$1,400,000					\$ 1,400,000
Engineering & Utilities	Wetland Loop Code and Compliance	Storm Water Fund & Street & Alley Fund	\$ 420,000					\$ 420,000
Engineering & Utilities	5TH Street west of Colorado Blvd to William Bailey	Storm Water Fund & Street & Alley Fund				\$500,000		\$ 500,000
Engineering & Utilities	5th Street Round About at intersection of Colorado	Street & Alley Fund			\$325,000		\$ -	\$ 325,000
Engineering & Utilities	William Bailey from CR 16 to Majestic	Street & Alley Fund		\$112,150	\$112,150	\$112,150	\$ -	\$ 336,450
Engineering & Utilities	Milavec Lake Improvements	Water Fund		\$ 75,000		\$ 1,000,000		\$ 1,075,000
Engineering & Utilities	Water Main Acquisition and Extensions	Water Fund		\$85,000	\$85,000	\$85,000		\$ 255,000
Engineering &Utilities	Water Purchases	Water Fund			\$150,000			\$150,000
Engineering & Utilities	Raw Water Facility & Extension	Water Fund	\$ 280,000	\$ 435,000	\$ 150,000	\$ 140,000	\$ 140,000	\$ 1,145,000
Engineering & Utilities	Aggregate Blvd. Signalization	General Fund	\$ 150,000					\$ 150,000
ENGINEERING & UTILITY TOTAL			\$ 5,128,000	\$ 4,080,150	\$ 2,437,150	\$ 9,992,150	\$ 8,408,000	\$ 30,045,450

TOWN OF FREDERICK, COLORADO

2015 - 2019 Capital Improvement Plan

PROJECTS BY DEPARTMENT

DEPARTMENT	PROJECT NAME	FUND	FY '15	FY '16	FY '17	FY '18	FY ' 19	Total
Police	Vehicle Replacement	General Fund	\$ -	\$ 121,000	\$ 80,000	\$ 80,000	\$ 80,000	\$ 361,000
Police	RMS System	General Fund		\$ 90,000				\$ 90,000
POLICE TOTAL			\$ -	\$ 211,000	\$ 80,000	\$ 80,000	\$ 80,000	\$ 451,000
Finance	Software Evaluation and Upgrade	All Funds		\$ 150,000				\$ 150,000
FINANCE TOTAL			\$ -	\$ 150,000	\$ -	\$ -	\$ -	\$ 150,000
Human Resources	Integrated HRIS with financial software	All Funds		\$ 15,000				\$ 15,000
HUMAN RESOURCES TOTAL			\$ -	\$ 15,000	\$ -	\$ -	\$ -	\$ 15,000
Planning	Trail Development	Open Space Fund	\$ 320,000	\$ 300,000	\$ 300,000			\$ 920,000
Planning	Plotter Purchase	General Fund	\$ 10,000					\$ 10,000
Planning	Comprehensive Plan Update	General Fund	\$ 100,000					\$ 100,000
Planning	Frederick Recreation Area	Park & Open Space Funds	\$ 800,000	\$ 500,000	\$ 150,000			\$ 1,450,000
Planning	Community Park Development West of I-25	Park & Open Space Funds		\$ 2,500,000				\$ 2,500,000
Planning	Centennial Park Master Plan Development & Implementation	Park & Open Space Funds		\$ 150,000		\$ 100,000		\$ 250,000
PLANNING TOTAL			\$ 1,230,000	\$ 3,450,000	\$ 450,000	\$ 100,000	\$ -	\$ 5,230,000
Electric Utility	Old Substation Removal	Electric Fund	\$ 12,000					\$ 12,000
Electric Utility	Meter Replacement Program	Electric Fund	\$ 350,000					\$ 350,000
Electric Utility	Utility Vehicle	Electric Fund	\$ 34,000					\$ 34,000
ELECTRIC UTILITY TOTAL			\$ 396,000	\$ -	\$ -	\$ -	\$ -	\$ 396,000

<div> <div>TOWN OF FREDERICK, COLORADO</div> <div>2015 - 2019 Capital Improvement Plan</div> <div>PROJECTS BY DEPARTMENT</div> </div>								
DEPARTMENT	PROJECT NAME	FUND	FY '15	FY '16	FY '17	FY '18	FY ' 19	Total
Public Works	Snow Plow	Street & Alley Fund		\$ 125,000	\$ 125,000	\$ 125,000		\$ 375,000
Public Works	Maintenance Truck	Street & Alley Fund	\$ 27,000	\$ 35,000	\$ 35,000	\$ 35,000		\$ 132,000
Public Works	Lift Truck	Street & Alley Fund		\$ 50,000				\$ 50,000
Public Works	Park Mower	Parks & Open Space Funds	\$ 32,000	\$ 35,000	\$ 37,500			\$ 104,500
Public Works	Compact Utility Tractor	Parks & Open Space Funds	\$ 28,000					\$ 28,000
Public Works	Trailer Mounted Generator	Multiple Funds	\$ 18,000					\$ 18,000
Public Works	Public Works Software	Multiple Funds	\$ -	\$ 18,000				\$ 18,000
Public Works	Skid Steer with Attachments	Multiple Funds			\$ 50,000			\$ 50,000
Public Works	Irrigation Control Centralization	Parks & Open Space Funds	\$ 100,000					\$ 100,000
PUBLIC WORKS TOTAL			\$ 875,500	\$ 263,000	\$ 247,500	\$ 160,000	\$ -	\$ 557,000
OVERALL TOTAL			\$ 7,679,500	\$ 9,044,150	\$ 3,984,650	\$ 11,102,150	\$ 8,508,000	\$ 40,318,450

RESOLUTION 15 R 2

A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO ADOPTING A CAPITAL IMPROVEMENT PLAN FOR THE 2015 BUDGET YEAR.

WHEREAS, the Board of Trustees of the Town of Frederick, Colorado recognizes the value and need for long range financial planning and development of a Capital Improvement Plan for the Town; and

WHEREAS, the Board of Trustees as part of the annual budget process is to review all capital needs for the Town and set priorities and methods of financing for said projects.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, COLORADO, AS FOLLOWS:

Section 1. The Capital Improvement Plan for the Town of Frederick for the 2015 budget year is hereby adopted and is based on the 2015 fiscal year budget.

Section 2. The Capital Improvement Plan is designed to provide a framework for financial decisions regarding long-term infrastructure development, critical facilities, and equipment resources and needs.

Section 3. The Board of Trustees will review the proposed projects annually and make revisions as necessary.

Section 4. Effective Date. This resolution shall become effective immediately upon adoption.

Section 5. Repealer. All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

Section 6. Certification. The Town Clerk shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

INTRODUCED, READ, PASSED AND ADOPTED THIS 13th DAY OF JANUARY, 2015.

TOWN OF FREDERICK

By _____
Tony Carey, Mayor

ATTEST:

By _____
Meghan C. Martinez, Town Clerk



TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tony Carey, Mayor

Laura Brown, Mayor Pro Tem
Rafer Burnham, Trustee
Fred Skates, Trustee

Amy Schiers, Trustee
Gavin Payne, Trustee
Donna Hudziak, Trustee

To Consider an Agreement with New Consolidated Lower Boulder Reservoir and Ditch Company for the Layton Lateral Flow Measurement Improvements

Agenda Date: Town Board Meeting – January 13, 2015

Attachments:

- a. Construction and Operation Agreement for the Layton Lateral Turnout and Measuring Facilities
- b. Vicinity map

Finance Review: _____
Finance Director

Submitted by: Richard Leffler, P.E. _____
Engineering & Utilities Director

Approved for Presentation:  _____
Town Manager

☐ Quasi-Judicial

☐ Legislative

☒ Administrative

Summary Statement:

The attached Agreement specifies the Town's and the New Consolidated Lower Boulder Reservoir and Ditch Company's (Ditch Company) responsibilities for the cost and operations of the Layton Lateral turnout and flow measurement improvements.

Detail of Issue/Request:

The Ditch Company owns and operates the Layton Lateral turnout through which water is delivered to the Town's Milavec Lake along with deliveries to other shareholders in the Ditch Company. The existing measuring device installed at the Layton Lateral turnout does not accurately measure water and needs to be replaced. As was agreed to in 2005 when a portion of the Layton Lateral was put in a pipe, it is proposed that the project costs be shared 60% by the Town and 40% by the Ditch Company. This is roughly based on the respective flows that are desired by these parties. It is estimated that the Town's share for this project would amount to approximately \$20,000. The Town's share of these costs would

Built on What Matters.

completely eliminate any carriage charges owed to the Ditch Company for water delivered to Milavec Lake prior to November 1, 2014. It is estimated these carriage charges would amount to between \$16,000 and \$20,000. Beginning in the 2015 water year, the carriage of foreign water (water delivered for storage in Milavec Lake and other water not diverted pursuant to water rights owned by the Town in the Ditch Company) would be handled according to the bylaws and rules and regulations of the Ditch Company. This would take the place of an old agreement and would give the Town credit for 10 acre feet of foreign water for every share of stock the Town owns in the Ditch Company. It is staff's opinion that this would be a much simpler and better arrangement for the Town. The Ditch Company would be responsible for all operations and maintenance of the new turnout and flow measurement equipment following completion of these improvements. The Town will also be making improvements to restore its own facilities to accurately measure and record flows into Milavec Lake under a separate project.

Legal/Political Considerations:

The draft agreement has been reviewed by the Town's water attorney.

Alternatives/Options:

Do not approve the proposed agreement and direct staff to negotiate a different cost sharing arrangement. Continue to operate under the old carriage agreement or direct staff to renegotiate that agreement. It is staff's opinion that operating under the Ditch Company bylaws is the preferred option at this time.

Financial Considerations:

There are funds in the 2015 budget to cover these costs. The credit against carriage fees owed to the Ditch Company by the Town would offset most if not all of the Town's costs for this project.

Staff Recommendation:

Staff recommends that the Board approve the attached New Consolidated Lower Boulder Reservoir and Ditch Company – Town of Frederick Construction and Operation Agreement for the Layton Lateral Turnout and Measuring Facilities and authorize the Mayor to sign the agreement.

**NEW CONSOLIDATED LOWER BOULDER RESERVIOR AND DITCH COMPANY -
TOWN OF FREDERICK CONSTRUCTION AND OPERATION AGREEMENT
FOR THE LAYTON LATERAL TURNOUT AND MEASURING FACILITIES**

1. **PARTIES.** The parties to this Agreement are the **NEW CONSOLIDATED LOWER BOULDER RESERVOIR AND DITCH COMPANY**, a mutual ditch company ("Ditch Company"), and the **TOWN OF FREDERICK** ("Town"). The Ditch Company and Town are jointly referred to as the Parties.

2. **RECITALS.**

2.1 The Ditch Company is a mutual ditch company, organized pursuant to the Colorado statutes. The Ditch Company owns the Lower Boulder Canal, the main canal used by the Ditch Company to deliver water, and the Layton Lateral, a lateral or sub-canal used to deliver water to shareholders. The Layton Lateral branches off the Lower Boulder canal at the location depicted in the map attached as Exhibit A ("the Layton Lateral turnout").

2.2 The Town is a shareholder in the Ditch Company and runs water delivered to it as a result of ownership of shares in the Ditch Company through the Layton Lateral turnout to Milavec Reservoir, a storage reservoir owned by the Town. The location of Milavec Reservoir and the delivery system to that reservoir are also depicted in Exhibit A.

2.3 In order to deliver water to its shareholders taking delivery from the Layton Lateral, the Ditch Company must be able to divert and measure water from the Lower Boulder Canal to the Layton Lateral at the Layton Lateral turnout.

2.4 The existing measuring device installed at the Layton Lateral turnout does not accurately measure water and, therefore, the Town and the Ditch Company have agreed to replace that measuring device. As part of installing a new measuring device, modifications to the existing Layton Lateral turnout must be made. The Ditch Company and the Town have agreed on the type and specifications of the new measuring device to be installed and that measuring device ("the SlipMeter") has been ordered by the Ditch Company. A copy of the purchase order for the SlipMeter is attached as Exhibit B to this Agreement. The Ditch Company and the Town have also agreed on the modifications that must be made to accommodate the installation of the SlipMeter at the Layton Lateral turnout.

2.5 The Ditch Company and the Town desire to share the costs for the purchase and installation of the SlipMeter, the costs of the modifications to

the Layton Lateral turnout to install the SlipMeter, the Ditch Company legal fees in negotiating the terms of the purchase order for the SlipMeter and preparing this Agreement as well as any training or other associated costs of installing the SlipMeter and appurtenant structures.

2.6 The Town has historically diverted water from Boulder Creek for storage in Milavec Reservoir that was diverted pursuant to water rights owned by the Town or diverted under “free river” conditions. That water, not diverted pursuant to water rights adjudicated by the Ditch Company or its predecessors, is commonly referred to as “foreign water.” That foreign water was carried by the Ditch Company for the Town pursuant to a series of agreements between the Ditch Company and the Town. The Ditch Company and the Town desire to cancel the previous agreements and allow the Town to carry foreign water pursuant to the bylaws and rules and regulations of the Ditch Company starting in water year 2015 (commencing on November 1, 2014).

2.7 Contingent upon performance by the Town of its obligations under this Agreement, the Ditch Company is willing to forgo and wave any charges due from the Town for the carriage of foreign water run prior to November 1, 2014.

THE DITCH COMPANY AND THE TOWN DESIRE TO MEMORIALIZE THEIR AGREEMENTS REGARDING THE ABOVE AS FOLLOWS:

3. COSTS OF MODIFICATION TO THE LAYTON LATERAL TURNOUT.

3.1 The Ditch Company will obtain estimates for the modifications that must be made to the Layton Lateral turnout and the purchase of a trash rack that will be installed at the Layton Lateral turnout. The Ditch Company will provide the estimates to the Town, which will have 20 days to object to the estimate obtained by the Ditch Company.

3.2 The Town will provide construction management, inspection, and other material assistance throughout the construction of the modifications to the Layton Lateral turnout and the installation of the SlipMeter. The Ditch Company shall remain responsible for all construction decisions not expressly addressed herein.

3.3 The Ditch Company and the Town will share costs for the Installation, with the Ditch Company covering 40% and the Town covering 60% of the costs of the purchase of the SlipMeter, the costs of the modifications of the Layton Lateral turnout, the purchase and installation of the trash rack, all

training expenses, and legal and engineering fees incurred by the Company on this project.

4. CONVEYANCE OF FOREIGN WATER.

4.1 Starting in water year 2015, carriage of foreign water for the Town by the Ditch Company shall be pursuant to the rules and regulations of the Ditch Company. As stated in Section 2.6 above, all previous agreements concerning the carriage of foreign water for the Town by the Ditch Company are cancelled.

4.2 The Ditch Company shall credit costs of the Installation paid by the Town towards the carriage costs due to the Ditch Company for foreign water run through the ditch in 2013 and 2014.

The Ditch Company will consent to a motion and proposed decree in the Town application, case number 03CW224. The motion and proposed decree are attached hereto as Exhibit B and Exhibit C.

5. MAINTENANCE AND OWNERSHIP.

5.1 The Ditch Company shall be responsible for the maintenance and repair of the SlipMeter, the Layton Lateral turnout and associated structures.

5.2 The SlipMeter, the Layton Lateral turnout and associated structures will be the property of the Ditch Company.

6. WAIVER OF BREACH. The waiver by any party to this Agreement of a breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any party.

7. DEFAULT. Time is of the essence, and if any payment or any other condition, obligation or duty is not timely made, tendered or performed by either party, the non-defaulting party shall have the right to an action for specific performance or damages or both.

8. EXHIBITS. All exhibits referred to in this Agreement are, by reference, incorporated in this Agreement for all purposes.

DATED: _____.

**-DRAFT-
12/31/14**

**NEW CONSOLIDATED LOWER BOULDER
RESERVOIR AND DITCH COMPANY**

By _____
Eric Doering, President

ATTEST:

Daniel R. Grant, Secretary

TOWN OF FREDERICK

By _____
Print name _____
Title _____

ATTEST:

Town Clerk

DRAFT: 8-7-2014

District Court, Water Division No. 1 Weld County, Colorado Court Address: P.O. Box 2038, Weld County Courthouse, Room 418 901 Ninth Avenue Greeley, Colorado 80632	ΔCOURT USE ONLY Δ
Concerning the Application for Water Rights of the Town of Frederick	Case Number: 03CW224
In Boulder and Weld Counties	Division: 1 Courtroom: __
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECREE OF THE COURT	

This matter comes before the Court on the Application of the Town of Frederick, Colorado, ("Frederick") for absolute and conditional water storage rights. The Court, having considered the pleadings and stipulations between the parties, and being fully advised in the premises, enters the following Findings of Fact, Conclusions of Law, and Judgment and Decree

FINDINGS OF FACT

1. Name, address and telephone number of the Applicant:

Town of Frederick
P.O. Box 435
401 Locust Street
Frederick, CO 80530
Telephone: (303) 833-2388
2. Frederick initiated this matter by filing its Application for Conditional Storage Water Rights with the District Court, Water Division 1, on May 31, 2003. Frederick filed an Amended Application was filed on August 31, 2005, to make of portion of the conditional storage water rights absolute.
3. Jurisdiction. Timely and adequate notice of the Application was given in the manner required by law. The time for filing Statements of Opposition and for seeking leave to intervene has expired. This court has jurisdiction over all persons who have standing to appear whether they have appeared or not.
4. The land and water rights involved herein are not included within the boundaries of any

designated ground water basin.

5. Statements of Opposition. The City of Boulder, the Northern Colorado Water Conservancy District, and the New Consolidated Lower Boulder Reservoir and Ditch Company filed timely Statements of Opposition to the original Application. By Stipulation of the Applicant and Order of the Water Referee, all Statements of Opposition previously filed herein were deemed to apply fully to the Amended application without the necessity of any party re-filing Statements of Opposition or amendments thereto. The Varra Companies, Inc. filed a timely Statement of Opposition to the Amended Application.
6. Summaries of Consultation. The Division Engineer for Water Division No. 1 filed Summaries of Consultation dated August 20, 2003, December 14, 2005, and January 25, 2006. Frederick served copies of the Summaries of Consultation on the Objectors. The Court has duly considered the Summaries of Consultation.
7. Stipulations. Stipulations were entered as follows:
 - 7.1. City of Boulder, _____.
 - 7.2. Northern Colorado Water conservancy District, _____.
 - 7.3. New Consolidated Lower Boulder Reservoir and Ditch Company, _____.
 - 7.4. Varra Companies, _____.
8. Description of Water Rights. Frederick seeks to adjudicate the following absolute or conditional water storage rights:

Structure Name	Amount Conditional (a.f.)	Amount Absolute (a.f.)	Total Amount (a.f.)
Lower Boulder Extension Reservoir, First Enlargement	168.69	193.31	362.0
Lower Boulder Extension Reservoir, First Enlargement Refill	362.0	0	362.0
Finley No. 1 Irrigation Pond	0	10.8	10.8
Finley No. 1 Irrigation Pond Refill	0	10.8	10.8

Finley No. 2 Irrigation Pond	0	2.0	2.0
Finley No. 2 Irrigation Pond Refill	0	2.0	2.0
Miner's Park Irrigation Pond	0	12.3	12.3
Miner's Park Irrigation Pond Refill	0	12.3	12.3

8.1. Lower Boulder Extension Reservoir, First Enlargement (a/k/a Milavec Reservoir, First Enlargement).

- 8.1.1. Legal description: The reservoir is located in the SE 1/4 of Section 24, Township 2 North, Range 68 West of the 6th P.M., Weld County, Colorado. A map depicting the location of the four reservoirs adjudicated herein is attached as Exhibit A and incorporated herein by this reference.
- 8.1.2. Name and capacity of facilities used to fill the reservoir, and legal description of each point of diversion: Water is diverted through the Lower Boulder Ditch and thence through the Leyton Lateral. The Lower Boulder Ditch diverts from the South bank of Boulder Creek in the SW 1/4 of the SW 1/4 of Section 16, Township 1 North, Range 69 West of the 6th P.M., Boulder County, Colorado. The Leyton Lateral diverts from the Lower Boulder Ditch at a point known as "the reservoir headgate" located in the NE 1/4 of the SW 1/4 of Section 24, Township 2 North, Range 68 West of the 6th P.M., Weld County, Colorado, at a point from which the Southwest Corner of said Section bears South 52° West 2,400 feet, more or less.
- 8.1.3. Amounts claimed: 362 acre-feet, being 193.31 acre-feet ABSOLUTE and 168.69 acre-feet CONDITIONAL, with the right to one refill of 362 acre-feet in priority, CONDITIONAL.
- 8.1.4. Rate of diversion: Not to exceed 90 cubic feet per second at the Leyton Lateral diversion and not to exceed 106 cubic feet per second at the Boulder Creek headgate of the Lower Boulder Ditch.
- 8.1.5. Surface area of high water line: 64.9 acres.
- 8.1.6. Maximum height of dam: 19 feet.
- 8.1.7. Total capacity of reservoir: The current decreed capacity of the reservoir is 768 acre-feet with an appropriation date of February 1, 1892, adjudicated in the March 13, 1907 adjudication. The existing earthen dam (identified as Frederick Dam, DAM ID 055319 by the State Engineer's Office), fully encircles the reservoir and provides mostly above grade storage. The dam has a jurisdictional height of 19 feet.

In 2003, the reservoir was excavated to enlarge the capacity by 362 acre-feet. The enlarged capacity is entirely below grade.

8.1.8. Reservoir expansion project: As part of the 2003 expansion project a low permeability compacted clay liner was installed in the reservoir to reduce seepage losses and a 36-inch diameter ductile iron pipe was installed to increase the discharge capacity of the facility. The outlet works provides for gravity deliveries of water to the Finley No. 1 Irrigation Pond and Finley No. 2 Irrigation Pond, both located within the Bella Rosa Golf Course, and additional capacity for pumped delivery of water to the Miner's Park Irrigation Pond.

8.2. Finley No. 1. Irrigation Pond

8.2.1. Legal Description: Finley No. 1 Irrigation Pond is located in the E 1/2 of the NE 1/4 of Section 24, Township 2 North, Range 68 West of the 6th P.M., Weld County, Colorado. The pond location is depicted on attached Exhibit A.

8.2.2. Point of Diversion: Water is diverted through the Lower Boulder Ditch and the Leyton Lateral, both described above in Paragraph 8.1.2, then carried through the enlarged Milavec Reservoir. Water is then piped to the Finley No. 1 Irrigation Pond by gravity at lower rates of flow than the diversions into Milavec Reservoir.

8.2.3. Amounts Claimed: 10.8 acre-feet, ABSOLUTE, with the right to one refill of 10.8 in priority, ABSOLUTE.

8.2.4. Rate of Diversion: Not to exceed 90 cubic feet per second at the Leyton Lateral diversion and not to exceed 106 cubic feet per second at the Boulder Creek headgate of the Lower Boulder Ditch.

8.2.5. Surface area of high water line: 1.73 acres.

8.2.6. Maximum height of dam, elevation of spillway and length of dam: Not applicable, as pond was excavated below grade.

8.2.7. Total capacity of reservoir: 10.8 acre-feet, with no dead storage.

8.2.8. Pond Construction: Following construction of the pond, Frederick's engineers observed the pond bottom to be dry with no apparent groundwater inflow for thirty days following completion of construction. The pond was constructed with a clay liner to limit seepage losses. Surface water runoff, other than direct precipitation on the pond surface, is precluded from entering the pond by diversion ditches and berming that was constructed around the pond perimeter.

8.3. Finley No. 2 Irrigation Pond

- 8.3.1. Legal Description: Finley No. 2 Irrigation Pond is located in the E 1/2 of the NE 1/4 of Section 24, Township 2 North, Range 68 West of the 6th P.M., Weld County, Colorado. The pond location is depicted on attached Exhibit A.
- 8.3.2. Name and capacity of facilities used to fill the reservoir, and legal description of each point of diversion: Water is diverted through the Lower Boulder Ditch and the Leyton Lateral, both described above in Paragraph 8.1.2, then carried through the enlarged Milavec Reservoir. Water is then piped to the Finley No. 2 Irrigation Pond by gravity at lower rates of flow than the diversions into Milavec Reservoir.
- 8.3.3. Amounts Claimed: 2.0 acre-feet, ABSOLUTE, with the right to one refill of 2.0 acre-feet in priority, ABSOLUTE.
- 8.3.4. Rate of Diversion: Not to exceed 90 cubic feet per second at the Leyton Lateral diversion and not to exceed 106 cubic feet per second at the Boulder Creek headgate of the Lower Boulder Ditch.
- 8.3.5. Surface area of high water line: 0.60 acres.
- 8.3.6. Maximum height of dam, elevation of spillway and length of dam: Not applicable, as pond was excavated below grade.
- 8.3.7. Total capacity of reservoir: 2.0 acre-feet, with no dead storage.
- 8.3.8. Pond Construction: Following construction of the pond, Frederick's engineers observed the pond bottom to be dry with no apparent groundwater inflow for six months following completion of construction. The pond was constructed with a clay liner to limit seepage losses. Surface water runoff, other than direct precipitation on the pond surface, is precluded from entering the pond by diversion ditches and berming that was constructed around the pond perimeter.

8.4. Miner's Park Irrigation Pond

- 8.4.1. Legal description: Miner's Park Irrigation Pond is located in the N 1/2 of the SW 1/4 of Section 31, Township 2 North, Range 67 West of the 6th P.M., Weld County, Colorado. The pond location is depicted on attached Exhibit A.
- 8.4.2. Name and capacity of facilities used to fill the reservoir, and legal description of each point of diversion: Water is diverted through the Lower Boulder Ditch and the Leyton Lateral, both described above in paragraph 8.1.2,

then carried through the enlarged Milavec Reservoir. Water is then pumped to the Miner's Park Irrigation Pond at lower rates of flow than the diversions into Milavec Reservoir.

- 8.4.3. Amounts Claimed: 12.3 acre-feet, ABSOLUTE, with the right to one refill of 12.3 acre-feet in priority, ABSOLUTE.
 - 8.4.4. Rate of Diversion: Not to exceed 90 cubic feet per second at the Leyton Lateral diversion and not to exceed 106 cubic feet per second at the Boulder Creek headgate of the Lower Boulder Ditch.
 - 8.4.5. Surface area of high water line: Approximately 1.94 acres.
 - 8.4.6. Maximum height of dam, elevation of spillway and length of dam: Not applicable, as pond was excavated below grade.
 - 8.4.7. Total capacity of reservoir: 12.3 acre-feet, with no dead storage.
 - 8.4.8. Pond Construction: The pond was constructed in clay soils with a finished bottom elevation above observed water levels reported by Frederick's engineers. Following construction of the pond, Frederick's engineers observed the pond bottom to be dry with no apparent groundwater inflow for over eighteen months following completion of construction. Surface water runoff, other than direct precipitation on the pond surface, is precluded from entering the pond by diversion ditches and berming that was constructed around the pond perimeter.
9. Source for the four reservoirs described in Paragraph 8: Boulder Creek and waste, seepage and runoff into the Lower Boulder Ditch and the Leyton Lateral, all tributary to Boulder Creek and its tributaries.
 10. Date of appropriation for each reservoir: January 16, 2003.
 11. The appropriations for the four reservoirs were initiated by forming the intent to appropriate, conducting field surveys and other engineering analyses, core drilling, a municipal resolution, obtaining financing from the Colorado Water Conservation Board, filing the application herein and completing the necessary construction of the three smaller reservoirs and the first enlargement of Lower Boulder Extension Reservoir (a/k/a "Milavec Reservoir").
 12. Engineering studies conducted for Frederick have established, and the Court finds, there is unappropriated water available at times for the conditional storage water rights claimed herein
 13. Evidence submitted to the Court establishes that Frederick has been able to divert and store

some amounts of water in priority under the claims in this matter during each of the Water Years 2005-2010. The largest amounts of water stored in priority during that time period occurred during the 2010 Water Year (November 1, 2009 - October 31, 2010). The amounts claimed absolute herein by Frederick are based on said 2010 Water Year storage volumes and subsequent beneficial use. Frederick has maintained inflow-outflow accounting for each of the four reservoirs in Excel spreadsheet format. Outflows to beneficial use have been measured and documented in said accounting and are reflected in the amounts claimed absolute in the summary table and findings set forth in Paragraph 8. Frederick has to date been able to fully exercise both the first fill rights and the refill rights for the Finley No. 1 Irrigation Pond, the Finley No. 2 Irrigation Pond and the Miner's Park Irrigation Pond, as reflected in the findings above. The Court finds that the first fill and refill rights for these three structures should be decreed absolute herein. Frederick has also been able to exercise part of the first fill right for the Lower Boulder Extension Reservoir, First Enlargement, but has not been able to fully exercise such right, nor has Frederick been able to store and use any water under the refill right for such structure. The Court finds that the first fill right for said structure should be decreed absolute herein in the amount of 193.31 acre-feet and that the remaining 168.69 acre-feet should be decreed conditional. Finally, the Court finds that the refill right for the Lower Boulder Extension Reservoir, First Enlargement, shall be decreed herein as entirely conditional with the refill amount being 362.0 acre-feet.

14. All water diverted under the water rights claimed herein will be applied to all non-potable municipal purposes, including but not limited to, industrial, commercial, irrigation, environmental mitigation, piscatorial, wildlife conservation, recreation, augmentation, and exchange within Frederick's present and future service area. Frederick may use, reuse, make successive uses and dispose of by sale, exchange or otherwise to extinction all water lawfully diverted or impounded under the priorities claimed herein. No specific plan for augmentation or exchange plan is decreed herein. Reuse of water in the form of lawn irrigation return flows, golf course return flows and other forms of return flow which are not treated effluent returns is not adjudicated herein but may be adjudicated by Frederick in a separate water application.
15. The claimed flow rate of 90 cubic feet per second is intended to be administered at a measuring device just below the "reservoir headgate" on the Leyton Lateral, just West of Milavec Reservoir, rather than at the Milavec Reservoir staff gauge. Larger flows will need to be diverted at the Lower Boulder Ditch headgate to produce the required flow at the flume used for administration, subject to available capacity in the Lower Boulder Ditch and the Leyton Lateral and subject to Frederick's agreement with the New Consolidated Lower Boulder Reservoir and Ditch Company. As a term and condition of this decree, the total rate of diversion for the subject water rights as measured at the Boulder Creek headgate of the Lower Boulder Ditch shall not exceed 106 cubic feet per second. As a further term and condition of this decree, the total volume of water impounded under the first fill for all structures shall be not greater than 387.10 acre-feet, and then an additional 387.10 acre-feet under one refill for all structures.

16. Frederick is a shareholder in the New Consolidated Lower Boulder Reservoir and Ditch Company (“Lower Boulder”). Frederick’s use of the Lower Boulder Ditch to carry water to the reservoirs described above is pursuant to an agreement between the Frederick and Lower Boulder dated April 2, 1987 (“Agreement”), which replaced several prior agreements, and such use is also governed by the By-Laws and Rules and Regulations of Lower Boulder. Nothing herein shall be construed to prohibit modification of the Agreement, the execution of any future agreements or any amendments to Lower Boulder’s By-Laws and/or Rules and Regulations.
17. Nothing in this ruling or decree shall be construed to grant to the Frederick any right to the use of the Lower Boulder Ditch as against Northern Colorado Water Conservancy District (“NCWCD”) or to modify or affect the rights of NCWCD and Lower Boulder with respect to the Lower Boulder Ditch. Further, nothing in this ruling or decree shall be construed to grant to the Frederick any preference over other shareholders in the New Consolidated Lower Boulder Reservoir and Ditch Company for the use of space available capacity to carry the water rights adjudicated herein. Still further, nothing in this ruling or decree shall be construed to grant to the Frederick any vested right to use the capacity of the Lower Boulder Ditch to carry the water rights adjudicated herein, except as such rights may be granted by the agreements between the Frederick and Lower Boulder and by the By-Laws and Rules and Regulations of Lower Boulder.
18. Frederick has agreed to work in good faith with objector Varra Companies, Inc. (“Varra”) to resolve Varra’s concern that storm water discharge from Frederick’s structures described herein could interfere with Varra’s ability to use its Last Chance Ditch and Rural Ditch water rights or to otherwise carry water in the Last Chance Ditch and Rural Ditch and may cause damage to Varra’s mining and storage facilities located on the laterals of the subject ditches. Acknowledgment of Varra’s concern regarding potential storm water runoff does not act to waive either Frederick or Varra’s position in any matter or forum regarding the same.
19. Frederick acknowledges that nothing in this decree grants it the right to reuse or carryover any of the water it stores in the reservoirs from the NCWCD Colorado Big Thompson Project (“C-BT Water”)
20. The claims herein are lawful and are part of a single integrated water supply system being planned and developed for the Frederick. The subject water rights and facilities will be operated in conjunction with Frederick’s previously adjudicated water rights and facilities together with water rights it acquires in the future.

CONCLUSIONS OF LAW

21. Frederick filed the Application and Amended Application pursuant to C.R.S. §37-92-302(1)(a).

22. Frederick gave full and adequate notice of the claims adjudicated herein in the manner required by law. C.R.S. §37-92-302 (3).
23. The Opposers filed statements of opposition as indicated above. The time for filing additional statements of opposition and motions to intervene has expired according to law. C.R.S. §37-92-302(1)(c).
24. The Court has jurisdiction over the subject matter of this application and over all persons affected hereby. C.R.S. §37-92-301(2), as amended.
25. To the extent the water storage rights claimed herein are not made absolute by this ruling and decree, Frederick has provided sufficient evidence that the waters claimed herein can and will be diverted, stored, or otherwise captured, possessed, and controlled, and will be beneficially used. Frederick has constructed the reservoir projects and water can and will be diverted and applied to beneficial use with diligence and within a reasonable time. C.R.S. §§ 37-92-103 (3) (A) (II) and 37-92-305 (9)(b).
26. Frederick has complied with all requirements and has met all required burdens of proof to adjudicate its water storage rights, including the requirements of C.R.S. § 37-92-305.
27. The priority dates awarded herein were determined pursuant to C.R.S. §37-92-306
28. The requested water storage rights described in Paragraph 8 are hereby approved. C.R.S. §37-92-305.
29. The conditional claims herein are lawful and are part of a single integrated water supply system being planned and developed for the Frederick. Work on one feature of Frederick's system shall be considered in future findings that reasonable diligence has been shown in the development of water rights for all features of the entire system. C.R.S. § 37-92-301 (4) (b).

JUDGMENT AND DECREE OF THE COURT

30. The foregoing Findings of Fact and Conclusions of Law are incorporated into the decretal portion hereof as if fully set forth.
31. The Application for absolute and conditional water storage rights is hereby approved and confirmed. Absolute and conditional water storage rights and refill rights are awarded in accordance with the findings set out in paragraphs 10-14 and 19, above. The water storage rights shall include the right to use, reuse, make successive uses and dispose of by sale, exchange or otherwise to extinction all water lawfully diverted or impounded under the

priorities awarded herein

32. Water shall not be impounded under this decree unless Frederick is entitled to do so by virtue of the priorities herein awarded or pursuant to a decreed plan for augmentation or decreed exchange plan. At all other times, all inflow of water into the reservoirs from any source except for water associated with Frederick's direct flow water rights that is passed through the reservoir and used directly for irrigation, including precipitation, shall be removed by Frederick by draining, pumping or other means, and released into the nearest natural water course or below the reservoirs and not utilized by Frederick in any manner. All water that is stored out-of-priority or that is not stored pursuant to the operation of a decreed plan for augmentation or decreed exchange plan shall be promptly released to the stream without use upon the direction of the Division Engineer and/or the Water Commissioner.
33. Frederick shall install and maintain such measuring and recording devices or other structures, and shall maintain such records of diversions and storage hereunder, as may be required by State water administration officials for administration of these water storage rights. For purposes of administration of the one-fill rule, the subject water storage rights shall be administered and accounted for based upon a November 1 through October 31 water storage year.
34. Reservoir Evaporation: Daily evaporation losses from the reservoirs shall be calculated individually for each reservoir by multiplying the total water surface area in acres for the particular structure by gross reservoir evaporation in feet. Real time gross reservoir evaporation in feet shall be determined on a daily basis using the following method: (1) gross pan evaporation shall be computed by multiplying daily standard alfalfa reference crop evapotranspiration (ET_r) in feet published by the Northern Colorado Water Conservancy District (NCWCD) for the NCWCD Fort Lupton weather station, or for another weather station with ET_r data within 15 miles of the reservoirs if such ET_r data are not available from the NCWCD Fort Lupton weather station, by 1.2 to determine daily gross pan evaporation in feet. Daily gross pan evaporation shall then be multiplied by a pan coefficient of 0.7 to obtain daily gross reservoir evaporation in feet. If the NCWCD Fort Lupton weather station or another weather station with ET_r data within 15 miles of the reservoirs is not operable, whether temporarily or permanently, and until ET_r data again become available from the NCWCD Fort Lupton weather station or another weather station with ET_r data within 15 miles of the reservoirs, and during months for which ET_r data are not normally calculated, Frederick shall apply the following values for daily gross reservoir evaporation in feet:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
0.004	0.005	0.007	0.012	0.015	0.019	0.019	0.017	0.013	0.009	0.005	0.004

35. Carryover Storage. Water stored under each water storage right confirmed herein in the previous water year that remains in storage in the reservoir at the beginning of the new water year shall be considered to be carryover storage against the annual right to fill under the

storage in the new water year. Other water stored in each reservoir at the beginning of the water storage year that is not stored under the water storage right shall not automatically count against the annual fill. However, once the water right is filling in priority and there is insufficient capacity in the reservoir for the water right and the other water, Frederick must then either book over the other water and count it against the fill or release it from the reservoir. Any such water that is booked over shall be counted against the first fill right for that water year. In the case of Milavec Reservoir, any such water booked over shall count first against the senior Milavec Reservoir water right previously decreed for 768 acre-feet. Frederick shall account for water stored under each Milavec Reservoir water right separately. Frederick shall not carryover any water stored in the reservoirs from C-BT Water.

36. Accounting Forms. Frederick shall perform daily accounting and recording of all inflows and outflows, including precipitation and evaporation, for the storage rights herein and report to the Water Commissioner on a monthly basis, with an annual summary. The accounting for the storage rights shall include all of the information required by this Decree. The accounting shall at a minimum include: (1) the name, administration number, priority and location of the calling water right affecting the water rights confirmed herein; (2) daily gage height readings for the reservoirs; (3) daily, monthly, and annual volumes and types of water in storage in the reservoirs, recorded daily and reported monthly; (4) carryover for the reservoirs; (5) daily, monthly, and annual total measured releases from the reservoirs; (6) daily, monthly, and annual total evaporative and seepage losses for each type of water stored in the reservoirs; (7) daily, monthly, and annual total precipitation and other inflows, both in and out of priority, for the reservoirs; (8) inflow and outflow of Frederick's C-BT Water. The initial accounting forms are attached hereto as Exhibit B. The accounting procedure and form is not specifically decreed herein and may, due to operating experience, be modified with the approval of State water administration officials, after written notice of proposed changes is provided to the other parties, and provided the information required by this decree is included in any modified accounting forms. Frederick shall make such accounting information available to the other parties hereto upon request and upon payment of reasonable copying charges. Opposers shall have 35 days from the date of such notice to provide comments to the Division Engineer on any changes. The accounting for this decree shall be integrated with the accounting for other water rights and decrees operated by Frederick.
37. The priorities awarded for the conditional storage water rights described herein shall be January 16, 2003, and are based upon an application filed in 2003. They shall be administered as having been filed in that year and shall be junior to all priorities awarded on applications filed in prior years. As between all rights filed for adjudication in the same calendar year, priorities shall be determined by the decreed dates of appropriation and shall not be affected by the date of the entry of the rulings or decrees confirming such water rights.
38. It is therefore ordered that the conditional water rights adjudicated herein are continued in full force and effect until _____, 2020. If Frederick desires to maintain

such conditional decrees, an Application for Findings of Reasonable Diligence shall be filed not later than the last day of _____, 2020, or a showing made on or before such date that the conditional water rights have become absolute water rights by reason of the completion of the appropriations.

39. Frederick shall record a certified copy of this decree in the real estate records of the Clerk and Recorder's offices of Boulder and Weld Counties.

Dated: _____, 2014.

James F. Hartmann
Water Judge
Water Division No. 1

Exhibit A



Layton Lateral



DISCLAIMER: There are no representations or warranty, express or implied, concerning the accuracy, quality, likely results or reliability of the use of the information contained in this map. The Town assumes no responsibility for any errors, and is not liable for any damages resulting from the use of, or reliance on, the information contained in this map. Please notify the Town at gis@frederickco.gov of any discrepancies.

Layton Lateral

vicinity map



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TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tony Carey, Mayor

Laura Brown, Mayor Pro Tem
Rafer Burnham, Trustee
Fred Skates, Trustee

Amy Schiers, Trustee
Gavin Payne, Trustee
Donna Hudziak, Trustee

To Consider Awarding a Contract for the 1st Street Non-Potable Water Main Extension Project

Agenda Date: Town Board Meeting – January 13, 2015

Attachments:

- a. Bid tabulation
- b. Vicinity map

Finance Review:

Finance Director

Submitted by:

Mohammed Said
Civil Engineer

Approved for Presentation:



Town Manager

☐ Quasi-Judicial

☐ Legislative

☒ Administrative

Summary Statement:

The Bid Opening for the 1st Street Non-Potable Water Main Extension Project was on December 8, 2014. The apparent low bidder is Coyote Ridge Construction with a bid of \$135,740.00. This project would extend the non-potable water line in Tipple Parkway from Maple Street to the western edge of Carriage Hills Filing 2 Subdivision.

Detail of Issue/Request:

This project would construct part of the adopted Town of Frederick Raw Water Infrastructure Master Plan by extending the existing non-potable water line east along Tipple Pkwy from the intersection of Maple St. and Tipple Parkway to the west boundary of Carriage Hills Filing 2 (CH F2). As a condition of approval of CH F2, staff required the developer to design and construct a non-potable water line along their development adjacent to Tipple Pkwy and Ridgeway Blvd. CH F2 has incorporated a non-potable water system into their subdivision design to irrigate open spaces and parks. The Town agreed to bring non-potable water to the western edge of CH F2 subdivision or to provide potable water at the

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non-potable price until non-potable water is available. Extending this waterline to CH F2 will provide stubbed service connections to two future subdivisions; Village East, and Maple Ridge II. The Town received nine sealed bids and Coyote Ridge Construction was the lowest responsive bidder with a bid of \$135,740.00. See the attached summary of bids.

Legal/Political Considerations:

The bid process was conducted according to Town rules and regulations.

Alternatives/Options:

Per the contract documents, the Town has the option of awarding the contract for this work to the lowest responsible bidder or to reject any and all bids.

Financial Considerations:

The funding for this project is available in the 2015 fiscal year.

Staff Recommendation:

Staff recommends that the Board authorize the Engineering & Utilities Director to issue the Notice of Award to Coyote Ridge Construction in the amount of \$135,740.00. Staff further recommends that the Board authorize the Mayor to sign the Agreement with Coyote Ridge Construction upon the completion of all requirements listed in the Notice of Award and as specified in the Contract Bid Documents for the 1st Street Non-Potable Main Extension Project.

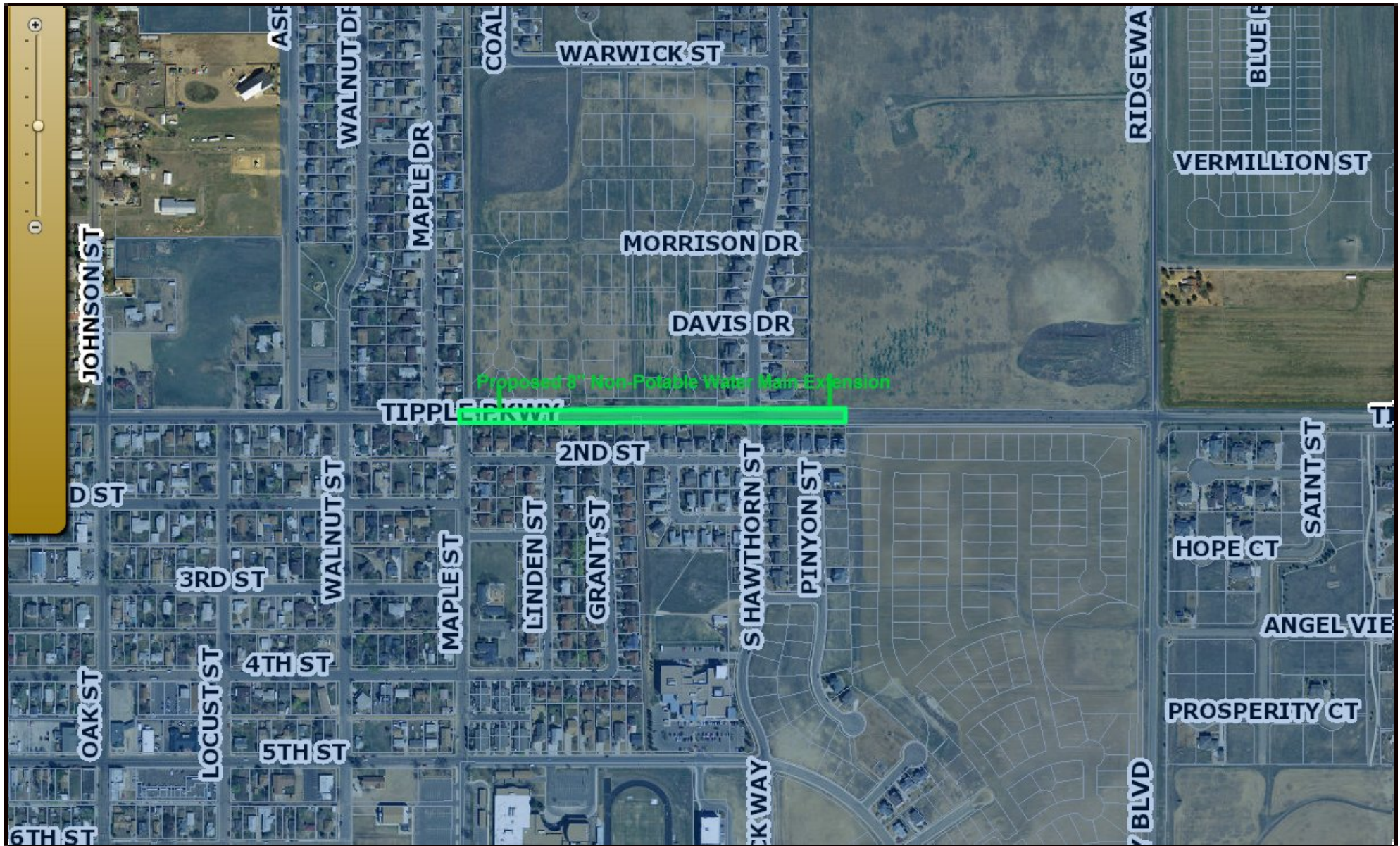
Town of Frederick - 1st Street Non-Potable Main Extension Project
Bid Opening Form - December 8, 2014 at 2pm

Bidder	Acknowledge Addendum 1 & 2	Bid Bond	Bidder's Qualifications	Non-Collusion Affidavit	Total Bid	
DeFalco Construction	✓	✓	✓	✓	144,217.89	
AISA Civil, Inc.	✓	✓	✓	✓	153,245.00	
Levi Contractors, Inc	✓	✓	✓	✓	141,054.00	
Coyote Ridge Construction	✓	✓	✓	✓	135,740.00	*
Diaz Construction Group	✓	✓	✓	✓	153,860.00	
Randy Kneebone Excavating	✓	✓	✓	✓	188,773.00	
NEC	✓	✓	✓	✓	186,991.00	
Duran Excavating	✓	✓	✓	✓	250,221.00	
K2 Construction	✓	✓	✓	✓	156,243.00	
* Apparent Low Responsive Bidder						



Raw Water Infrastructure - CIP

1st Street Non-Potable Water Main Project



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TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tony Carey, Mayor

Laura Brown, Mayor Pro Tem
Rafer Burnham, Trustee
Fred Skates, Trustee

Amy Schiers, Trustee
Gavin Payne, Trustee
Donna Hudziak, Trustee


An Ordinance of the Town of Frederick, Colorado Authorizing the Issuance of the Town's Sales and Use Tax Revenue Refunding Bonds, Series 2015.

Agenda Date: Town Board Meeting - January 13, 2015

Attachments:

- a. Ordinance No. 1187
- b. Comparison of Financial Options


Finance Review:


Finance Director

Submitted by:


Town Manager

Approved for Presentation:


Town Manager

☐ Quasi-Judicial

☒ Legislative

☐ Administrative

Summary Statement:

The ordinance provided would permit for the issuance of 2015 Series Bonds for refinancing the existing bond debt.

Detail of Issue/Request:

Enclosed is the ordinance which will provide for the Town to refund the outstanding bond at a lower interest rate and authorize the use of the sales and use tax revenues to pay the existing debt financing issued from the 2015 series bonds. Also included with this document is an updated evaluation of the financial options. Under the terms of this ordinance, only the existing debt is being refinanced.

Legal/Political Considerations:

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Alternatives/Options:

The Board may choose the following options:

1. Not refinance the bonds to a lower interest rate
2. Refinance bonds only for the existing debt
3. Refinance the existing bonds and issue additional money from the unissued debt.

Financial Considerations:

There will be substantial savings for the Town by selecting any of the options other than item 1 in the alternatives.

Staff Recommendation:

Staff recommends approving the ordinance to refinance as presented.

ORDINANCE NO. 1187

AN ORDINANCE OF THE TOWN OF FREDERICK, COLORADO, AUTHORIZING THE ISSUANCE OF THE TOWN'S SALES AND USE TAX REVENUE REFUNDING BONDS, SERIES 2015, FOR THE PURPOSE OF REFUNDING OUTSTANDING BONDS OF THE TOWN AT LOWER INTEREST RATES; PROVIDING FOR THE PAYMENT OF THE BONDS FROM A PLEDGE OF A PORTION OF THE TOWN'S TOTAL SALES AND USE TAX REVENUES OR OTHER LEGALLY AVAILABLE MONEYS OF THE TOWN; AND PROVIDING THE DETAILS AND APPROVING DOCUMENTS IN CONNECTION WITH THE BONDS.

WHEREAS, the Town of Frederick, Colorado is a municipal corporation duly organized and operating as a statutory town under the Constitution and laws of the State of Colorado (certain capitalized terms used in the preamble of this Ordinance are defined in Section 1 hereof); and

WHEREAS, pursuant to prior voter authorization and Ordinance No. 843 of the Town, the Town has previously issued and delivered its Sales and Use Tax Revenue Bonds, Series 2006, originally issued in the aggregate principal amount of \$5,075,000, which bonds are currently outstanding in the aggregate principal amount of \$3,270,000 and bear interest at interest rates ranging from 4.00% to 4.30% per annum; and

WHEREAS, pursuant to the Frederick Municipal Code and prior voter approval, the Town imposes a perpetual sales and use tax at the rate of 2.5% (the portion of which tax pledged to the payment of the Series 2006 Bonds is defined herein as the Base Sales and Use Tax); and

WHEREAS, the Series 2006 Bonds are subject to redemption at the option of the Town on any date prior to maturity, following notice of not less than 30-days prior to the redemption date, at a price of par plus accrued interest to the redemption date (without redemption premium) and the Series 2006 Bonds are payable at UMB Bank, n.a. (as successor in interest to American National Bank), in Denver, Colorado, as paying agent for such bonds; and

WHEREAS, George K. Baum & Company, of Denver, Colorado has presented a proposal to the Board to effect a present value savings for the Town by refunding the Series 2006 Bonds through the issuance of the Bonds at lower interest rates than the Series 2006 Bonds; and

WHEREAS, the net proceeds derived from the sale of the Bonds, together with other legally available moneys, in the gross amount necessary to pay and cancel the Series 2006 Bonds will be irrevocably deposited with UMB Bank, n.a., as paying agent for the Series 2006 Bonds, the on or before the Call Date, for the payment and cancellation of the Series 2006 Bonds; and

WHEREAS, the Bonds shall be revenue obligations of the Town payable from the same pledged revenues as the Series 2006 Bonds; and

WHEREAS, none of the members of the Board have any potential conflicting interests in connection with the authorization, issuance, or sale of the Bonds, or the use of the proceeds thereof; and

WHEREAS, the Board desires to authorize the issuance and sale of the Bonds and, as provided in Title 11, Article 57, Part 2, C.R.S., delegate the authority to the Sale Delegate to determine certain provisions of the Bonds to be set forth in the Sale Certificate, in accordance with the provisions of this Ordinance; therefore

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, COLORADO:

Section 1. **Definitions.** The following terms shall have the following meanings as used in this Ordinance:.

“Bank” means UMB Bank, n.a., in Denver, Colorado, or its successor, a national banking association duly organized and existing under the laws of the United States of America, being a member of the Federal Deposit Insurance Corporation, and having full and complete trust powers.

“Base Sales and Use Tax” means the 2.0% sales and use tax imposed pursuant to Ordinance No. 272 adopted by the Town on January 23, 1986 and approved by the voters on April 1, 1986. Unless otherwise specifically provided by the Board the term “Base Sales and Use Tax” does not include any of the Town’s present or future sales and use tax other than the sales and use tax referenced in the preceding sentence.

“Beneficial Owner” means any person for which a Participant acquires an interest in the Bonds.

“Board” means the Board of Trustees of the Town.

“Bond Account” means the Bond Account created in the section hereof titled “Establishment of Fund and Accounts” as an account of the Capital Improvement Fund.

“Bond Purchase Agreement” means the Bond Purchase Agreement between the Town and the Underwriter concerning the purchase of the Bonds by the Underwriter.

“Bond Counsel” means (a) as of the date of issuance of the Bonds, Kutak Rock LLP, and (b) as of any other date, Kutak Rock LLP or such other attorneys selected by the Town with nationally recognized expertise in the issuance of municipal bonds.

“Bond Obligation” means, as of any date, the principal amount of the Bonds Outstanding as of such date.

“Bonds” means the Sales and Use Tax Revenue Refunding Bonds, Series 2015, dated as of the Dated Date and authorized hereby.

“Board” means the Board of Trustees of the Town.

“Business Day” means any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions in the State are authorized or obligated by law or executive order to be closed for business.

“*Call Date*” means the date to be determined by the Sale Delegate on which the Series 2006 Bonds are to be called and redeemed.

“*Capital Improvement Fund*” means the Capital Improvement Fund previously established by the Town in accordance with, among other things, Section 29-2-111, C.R.S.

“*Cede*” means Cede & Co., the nominee of DTC as record owner of the Bonds, or any successor nominee of DTC with respect to the Bonds.

“*Certified Public Accountant*” means an independent certified public accountant within the meaning of § 12-2-115, C.R.S. and any amendment thereto, licensed to practice in the State.

“*Code*” means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein shall be deemed to include the United States Treasury Regulations proposed or in effect thereunder and applicable to the Bonds or the use of proceeds thereof, unless the context clearly requires otherwise.

“*Combined Maximum Annual Principal and Interest Requirements*” means an amount equal to the maximum amounts required to be paid in any single current or future calendar year as the principal of (including any mandatory sinking fund requirements) and interest on the Bonds and any Parity Lien Bonds outstanding, excluding any such bonds which have been defeased pursuant to the terms of the authorizing documents. For purposes of calculating the Combined Maximum Annual Principal and Interest Requirements in any calendar year in which any issue of Bonds and Parity Lien Bonds finally mature, there shall be subtracted from the final payment for said bonds any cash or the present value of any investments deposited in a reserve fund or account established pursuant to the authorizing documents which are properly allocable to said bonds.

“*Continuing Disclosure Undertaking*” means the Continuing Disclosure Undertaking of the Town executed and delivered by the Town in connection with the issuance of the Bonds to facilitate compliance with Securities and Exchange Commission Rule 15c2-12 (17 C.F.R. § 240.15c2-12).

“*C.R.S.*” means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

“*Dated Date*” means the original dated date for the Bonds as established in the Sale Certificate.

“*Depository*” means any securities depository as the Town may provide and appoint, in accordance with the guidelines of the federal Securities and Exchange Commission, which shall act as securities depository for the Bonds.

“*DTC*” means the Depository Trust Company, New York, New York, and its successors and assigns, which shall act as the initial securities depository of the Bonds.

“*DTC Blanket Letter of Representations*” means the agreement between the Town and DTC whereby the Town agrees to comply with DTC’s operational requirements.

“*Enabling Law*” means this Ordinance, Title 31, Article 15, C.R.S.; Title 29, Article 2, C.R.S.; Title 11, Article 56, C.R.S.; Title 11, Article 57, Part 2, C.R.S. and the Frederick Municipal Code.

“*Event of Default*” means any of the events specified in the section hereof titled “Events of Default.”

“*Federal Securities*” means bills, certificates of indebtedness, notes, bonds or similar securities which are direct non callable obligations of the United States of America or which are fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America.

“*Frederick Municipal Code*” means the Municipal Code of the Town.

“*Interest Payment Date*” means the semi-annual dates set forth in the Sale Certificate for the payment of interest on the Bonds.

“*Interest Sub-Account*” means a sub-account of the Bond Account established by the provisions hereof for the purpose of paying the interest on the Bonds.

“*Letter of Instructions*” means the Letter of Instructions, dated the date of issuance of the Bonds, delivered by Bond Counsel to the Town, as it may be superseded or amended in accordance with its terms.

“*Official Statement*” means the final version of the Preliminary Official Statement.

“*Ordinance*” means this ordinance which authorizes the issuance of the Bonds, including any amendments properly made hereto.

“*Outstanding*” means, as of any date, all Bonds, except the following:

(a) any Bond cancelled by the Town or the Paying Agent, or otherwise on the Town’s behalf, at or before such dates;

(b) any Bond held by or on behalf of the Town;

(c) any Bond for the payment or the redemption of which moneys or Federal Securities sufficient to meet all of the payment requirements of the principal of and interest on such Bond to the date of maturity or any redemption date thereof, shall have theretofore been deposited in trust for such purpose in accordance with the section hereof titled “Defeasance”; and

(d) any lost, apparently destroyed, or wrongfully taken Bond in lieu of or in substitution for which another bond or other security shall have been executed and delivered.

“*Owner*” or “*Owners*” means the Person or Persons in whose name or names a Bond is registered on the registration books maintained by the Paying Agent pursuant hereto.

“*Participant*” or “*Participants*” means any broker dealer, bank, or other financial institution from time to time for which DTC or another Depository holds the Bonds.

“*Parity Lien Bonds*” means any bonds or other obligations (which may or may not be multiple fiscal year financial obligations) permitted to be issued pursuant to the section hereof titled “Conditions to Issuance of Parity Lien Bonds,” with a lien on the Base Sales and Use Tax that is equal and on a parity with the lien of the Bonds on the Base Sales and Use Tax.

“*Paying Agent*” means the Bank.

“*Permitted Investments*” means any lawful investment permitted for the investment of funds of the Town by the laws of the State.

“*Person*” means a corporation, firm, other body corporate, partnership, association or individual and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.

“*Pledged Revenues*” means all of the Base Sales and Use Tax revenues required to be deposited in the Capital Improvement Fund pursuant to the section hereof entitled “Deposit of Base Sales and Use Tax.” The Pledged Revenues are pledged solely for capital improvement purposes in accordance with Part 1 of Article 2 of Title 29, C.R.S., or any successor thereto

“*Preliminary Official Statement*” means the Preliminary Official Statement concerning the Bonds and the Town.

“*Principal Payment Date*” means the annual or semi-annual dates set forth in the Sale Certificate for payment of the principal of the Bonds.

“*Principal Sub-Account*” means a sub-account of the Bond Account established by the provisions hereof for the purpose of paying the principal of the Bonds.

“*Pro Rata Portion*” means the dollar amount derived by dividing the amount of principal to come due on the next Principal Payment Date and interest to come due on the next Interest Payment Date by the number of monthly account credits required to be made prior to such payment dates.

“*Record Date*” means the last day of the calendar month next preceding each Interest Payment Date if the Interest Payment Date is on the fifteenth day of the month and the fifteenth day of the calendar month next preceding each Interest Payment Date if the Interest Payment Date is on the first day of the calendar month.

“*Reserve Account*” means the Reserve Account created in the section hereof titled “Establishment of Fund and Accounts” as an account of the Capital Improvement Fund.

“*Reserve Account Requirement*” means, as of any date on which it is calculated, the least of (a) 10% of the principal amount of the Outstanding Bonds, (b) the maximum annual debt service in any calendar year on the Outstanding Bonds or (c) 125% of the average annual debt service on the Outstanding Bonds; provided, however, that the Reserve Account Requirement

may be reduced if, in the opinion of Bond Counsel, the funding or maintenance of it at the level otherwise determined pursuant to this definition will adversely affect the exclusion from gross income tax for federal income tax purposes of interest on any of the Bonds.

“*Sale Certificate*” means the certificate executed by the Sale Delegate under the authority delegated pursuant to this Ordinance, including but not limited to the Sections hereof entitled “Bond Details,” “Redemption of Bonds Prior to Maturity,” “Approval of Official Statement and Miscellaneous Documents” and “Authorization of Bond Insurance.”

“*Sale Delegate*” means the Town Administrator or the Town Finance Director.

“*Sales and Use Tax*” means the 2.5% sales and use tax imposed pursuant to Article VI of the Frederick Municipal Code.

“*Series 2006 Bonds*” means the Town’s Sales and Use Tax Revenue Bonds, Series 2006, originally issued in the aggregate principal amount of \$5,075,000 and currently outstanding in the aggregate principal amount of \$3,270,000.

“*State*” means the State of Colorado.

“*Town*” means the Town of Frederick, Colorado.

“*Underwriter*” means George K. Baum & Company, of Denver, Colorado, the original purchaser of the Bonds

Section 2. Authorization and Purpose of the Bonds. Pursuant to and in accordance with the Enabling Law, the Town hereby authorizes, approves and orders that there shall be issued the “Town of Frederick, Colorado, Sales and Use Tax Revenue Refunding Bonds, Series 2015” for the purpose of paying the costs of the Refunding Project.

Section 3. Bond Details.

(a) ***Registered Form, Denominations, Original Dated Date and Numbering.*** The Bonds shall be issued in fully registered form, shall be dated as of the Dated Date, and shall be registered in the names of the Persons identified in the registration books maintained by the Paying Agent pursuant hereto. The Bonds shall be issued in denominations of \$5,000 in principal amount or any integral multiple thereof. The Bonds shall be consecutively numbered, beginning with the number one, preceded by the letter “R.”

(b) ***Maturity Dates, Principal Amounts and Interest Rates.*** The Bonds shall mature on the Principal Payment Dates and in the principal amounts, and shall bear interest at the rates per annum (calculated based on a 360-day year of twelve 30-day months) set forth in the Sale Certificate. The Board hereby delegates to the Sale Delegate the authority to determine (i) the aggregate principal amount of the Bonds, which amount shall not exceed \$3,500,000; (ii) the Dated Date, (iii) the price or prices at which the Bonds will be sold, (iv) the amount of principal of the Bonds maturing in any particular year, (v) the rate of interest on the Bonds, (vi) the Interest Payment Date, (vii) the

Principal Payment Date and (viii) any other matters that, in the judgment of the Sale Delegate, are necessary or convenient to be set forth in the Sale Certificate and are not inconsistent with the parameters established pursuant to this Ordinance. The maximum net effective interest rate for the Bonds shall not exceed 2.95% per annum and the present value savings, as a percentage of the aggregate principal amount of the outstanding Series 2006 Bonds, shall be at least 3% computed based upon the yield for the Bonds to the date of delivery of such Bonds, assuming semi-annual compounding.

(c) ***Accrual and Dates of Payment of Interest.*** Interest on the Bonds shall accrue at the rates set forth in the Sale Certificate from the later of the Dated Date or the latest Interest Payment Date (or in the case of defaulted interest, the latest date) to which interest has been paid in full and shall be payable on each Interest Payment Date.

(d) ***Manner and Form of Payment.*** Principal of and the final installment of interest on each Bond shall be payable to the Owner thereof upon presentation and surrender of such bond at the principal operations office of the Paying Agent or at such other location as identified by the Paying Agent. Interest (other than the final installment of interest) on each Bond shall be payable by check or draft of the Paying Agent mailed on the Interest Payment Date to the Owner thereof as of the Record Date; provided that interest payable to any Owner may be paid by any other means agreed to by such Owner and the Paying Agent that does not require the Town to make moneys available to the Paying Agent earlier than otherwise required hereunder or increase the costs borne by the Town hereunder. All payments of the principal of and interest on the Bonds shall be made in lawful money of the United States of America.

(e) ***Book Entry Registration.*** Notwithstanding any other provision hereof, the Bonds shall be delivered only in book-entry form registered in the name of Cede & Co., as nominee of DTC, acting as securities depository of the Bonds and principal of and interest on the Bonds shall be paid by wire transfer to DTC; provided, however, if at any time the Paying Agent determines, and notifies the Town of its determination, that DTC is no longer able to act as, or is no longer satisfactorily performing its duties as, securities depository for the Bonds, the Paying Agent may, at its discretion, either (i) designate a substitute securities depository for DTC and reregister the Bonds as directed by such substitute securities depository or (ii) terminate the book-entry registration system and reregister the Bonds in the names of the beneficial owners thereof provided to it by DTC. Neither the Town nor the Paying Agent shall have any liability to DTC, Cede & Co., any substitute securities depository, any Person in whose name the Bonds are reregistered at the direction of any substitute securities depository, any beneficial owner of the Bonds or any other Person for (A) any determination made by the Paying Agent pursuant to the proviso at the end of the immediately preceding sentence or (B) any action taken to implement such determination and the procedures related thereto that is taken pursuant to any direction of or in reliance on any information provided by DTC, Cede & Co., any substitute securities depository or any Person in whose name the Bonds are reregistered.

Section 4. Form of Bonds. The Bonds shall be in substantially the form set forth in Appendix A hereto with such changes thereto, not inconsistent herewith, as may be necessary or desirable and approved by the officials of the Town executing the same (whose manual or

facsimile signatures thereon shall constitute conclusive evidence of such approval). Although attached as an appendix for the convenience of the reader, Appendix A is an integral part of this Ordinance and is incorporated herein as if set forth in full in the body of this Ordinance.

Section 5. Execution, Authentication and Delivery of the Bonds.

(a) **Execution.** The Bonds shall be executed in the name and on behalf of the Town with the manual or facsimile signature of the Mayor or Mayor Pro Tem, shall bear a manual or facsimile of the seal of the Town and shall be attested by the manual or facsimile signature of the Town Clerk both of whom are hereby authorized and directed to prepare and execute the Bonds in accordance with the requirements hereof. Should any officer whose manual or facsimile signature appears on the Bonds cease to be such officer before delivery of any Bond, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes.

(b) **Authentication.** When the Bonds have been duly executed, the officers of the Town are authorized to, and shall, deliver the Bonds to the Paying Agent for authentication. No Bond shall be secured by or entitled to the benefit of this Ordinance, or shall be valid or obligatory for any purpose, unless the certificate of authentication of the Paying Agent has been manually executed by an authorized signatory of the Paying Agent. The executed certificate of authentication of the Paying Agent upon any Bond shall be conclusive evidence, and the only competent evidence, that such Bond has been properly authenticated hereunder.

(c) **Delivery.** Upon the authentication of the Bonds, the Paying Agent shall deliver the same to DTC in accordance with the provisions of the DTC Blanket Letter of Representations. Upon receipt of the agreed purchase price of the Bonds from the Underwriter and issuance of the approving opinion of Bond Counsel, DTC shall be directed to release the Bonds to the Beneficial Owners.

Section 6. Registration, Transfer and Exchange of Bonds.

(a) **Registration.** The Paying Agent shall maintain registration books in which the ownership, transfer and exchange of Bonds shall be recorded. The person in whose name any Bond shall be registered on such registration books shall be deemed to be the absolute owner thereof for all purposes, whether or not payment on any Bond shall be overdue, and neither the Town nor the Paying Agent shall be affected by any notice or other information to the contrary.

(b) **Transfer and Exchange of Bonds.** The Bonds may be transferred or exchanged, at the principal office of the Paying Agent at the location identified in the definition of Paying Agent in the section hereof titled "Definitions," for a like aggregate principal amount of Bonds of other authorized denominations of the same maturity and interest rate, upon payment by the transferee of a transfer fee, any tax or governmental charge required to be paid with respect to such transfer or exchange and any cost of printing bonds in connection therewith. Upon surrender for transfer of any Bond, duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or

his or her attorney duly authorized in writing, the Town shall execute and the Paying Agent shall authenticate and deliver in the name of the transferee a new Bond.

(c) ***Limitations on Transfer.*** The Town and Paying Agent shall not be required to issue or transfer any Bond: (i) during a period beginning at the close of business on the Record Date and ending at the opening of business on the first Business Day following the ensuing Interest Payment Date, or (ii) during the period beginning at the opening of business on a date 45 days prior to the date of any redemption of Bonds and ending at the opening of business on the first Business Day following the day on which the applicable notice of redemption is mailed. The Paying Agent shall not be required to transfer any Bonds selected or called for redemption.

Section 7. Replacement of Lost, Destroyed or Stolen Bonds. If any Bond shall become lost, apparently destroyed, stolen or wrongfully taken, it may be replaced in the form and tenor of the lost, destroyed, stolen or taken bond and the Town shall execute and the Paying Agent shall authenticate and deliver a replacement Bond upon the Owner furnishing, to the satisfaction of the Paying Agent: (a) proof of ownership (which shall be shown by the registration books of the Paying Agent), (b) proof of loss, destruction or theft, (c) an indemnity to the Town and the Paying Agent with respect to the Bond lost, destroyed or taken, and (d) payment of the cost of preparing and executing the new bond or bonds.

Section 8. Redemption of Bonds Prior to Maturity.

(a) ***Optional Redemption.*** The Bonds shall be subject to redemption at the option of the Town, in whole or in part, and if in part in such order of maturities as the Town shall determine and by lot within a maturity on such dates as set forth in the Sale Certificate. The Board hereby delegates to the Sale Delegate the authority to determine the dates on which the Bonds shall be subject to optional redemption and the redemption price or prices at which such redemption may be made.

(b) ***Mandatory Sinking Fund Redemption.*** All or any principal amount of the Bonds may be subject to mandatory sinking fund redemption by lot on December 1 of the years and in the principal amounts specified in the Sale Certificate, at a redemption price equal to the principal amount thereof (with no redemption premium), plus accrued interest to the redemption date. The Board hereby delegates to the Sale Delegate the authority to determine the principal amounts and dates on which the Bonds shall be subject to mandatory sinking fund redemption.

At its option, to be exercised on or before the forty fifth day next preceding each sinking fund redemption date, the Town may (i) deliver to the Paying Agent for cancellation any Bonds with the same maturity date as the Bonds subject to such sinking fund redemption and (ii) receive a credit in respect of its sinking fund redemption obligation for any Bonds with the same maturity date as the Bonds subject to such sinking fund redemption which prior to such date have been redeemed (otherwise than through the operation of the sinking fund) and cancelled by the Paying Agent and not theretofore applied as a credit against any sinking fund redemption obligation. Each Bond so delivered or previously redeemed shall be credited by the Paying Agent at the

principal amount thereof to the obligation of the Town on such sinking fund redemption date, and the principal amount of Bonds to be redeemed by operation of such sinking fund on such date shall be accordingly reduced.

(c) ***Redemption Procedures.*** Notice of any redemption of Bonds shall be given by the Paying Agent in the name of the Town by sending a copy of such notice by first class, postage prepaid mail, not less than 30 days prior to the redemption date, to the Owner of each Bond being redeemed. Such notice shall specify the number or numbers of the Bonds so to be redeemed (if redemption shall be in part) and the redemption date. If any Bond shall have been duly called for redemption and if, on or before the redemption date, there shall have been deposited with the Paying Agent in accordance with this Ordinance funds sufficient to pay the redemption price of such Bond on the redemption date, then such Bond shall become due and payable at such redemption date, and from and after such date interest will cease to accrue thereon. Failure to deliver any redemption notice or any defect in any redemption notice shall not affect the validity of the proceeding for the redemption of Bonds with respect to which such failure or defect did not occur. Any Bond redeemed prior to its maturity by prior redemption or otherwise shall not be reissued and shall be cancelled.

Any notice of redemption may contain a statement that the redemption is conditioned upon the receipt by the Paying Agent of funds on or before the date fixed for redemption sufficient to pay the redemption price of the Bonds so called for redemption, and that if funds are not available, such redemption shall be cancelled by written notice to the owners of the Bonds called for redemption in the same manner as the original redemption notice was mailed.

Section 9. Reaffirmation of Fund and Establishment of Accounts. There is hereby reaffirmed the Capital Improvement Fund. The foregoing fund and accounts hereafter established shall be maintained by the Town in accordance with the provisions of this Ordinance. The Town Finance Director is hereby authorized and directed to establish any accounts within the Capital Improvement Fund as are necessary and appropriate to carry out the provisions of this Ordinance; specifically, but not by way of limitation, there is hereby established within the Capital Improvement Fund the Bond Account, which shall include the Interest Sub-Account and the Principal Sub-Account, and the Reserve Account.

Section 10. Application of Proceeds of the Bonds; Funding of Reserve Account. Upon payment to the Town of the purchase price of the Bonds in accordance with the Bond Purchase Agreement, the proceeds received by the Town from the sale of the Bonds and other legally available moneys identified by the Sale Delegate shall be applied as a supplemental appropriation of the Town for the payment of the costs of issuance of the Bonds and as follows:

(a) For irrevocable deposit to the bond account established for the payment of the Series 2006 Bonds and held by the Bank, the gross amount necessary for the payment and cancellation of the Series 2006 Bonds on the Call Date; and

(b) For deposit to the Reserve Account, an amount equal to the Reserve Account Requirement.

Section 11. **Deposit of Base Sales and Use Tax.** Immediately upon receipt of the Base Sales and Use Tax, the Town shall make the following credits to the Capital Improvement Fund in the following order of priority and prior to any other use of Base Sales and Use Tax revenues:

First, to the credit of the Interest Sub-Account, the amounts required by the section hereof titled “Bond Account”;

Second, to the credit of the Principal Sub-Account, the amounts required by the section hereof titled “Bond Account”;

Third, to the credit of the Reserve Account, the amounts required by the section hereof titled “Reserve Account”; and

Fourth, to the credit of any other account hereafter established by the Town in the Capital Improvement Fund.

Section 12. **Bond Account.**

(a) ***Use of Moneys in Bond Account.*** Moneys deposited in the Bond Account shall be used solely for the purpose of paying the principal of and interest on the Bonds. The Principal Sub-Account shall be used to pay the principal of the Bonds and the Interest Sub-Account shall be used to pay the interest on the Bonds.

(b) ***Deposits to the Interest Sub-Account.*** On or before the first Business Day of each month, commencing in the month next succeeding the date of issuance of the Bonds, the Town shall credit to the Interest Sub-Account, from the Pledged Revenues and any interest income to be deposited in the Interest Sub-Account pursuant to the terms hereof, an amount equal to the Pro Rata Portion of the interest to come due on the Bonds on the next succeeding Interest Payment Date.

(c) ***Deposits to the Principal Sub-Account.*** On or before the first Business Day of each month, commencing in the month next succeeding the date of issuance of the Bonds, the Town shall credit to the Principal Sub-Account, from the Pledged Revenues and any interest income to be deposited in the Principal Sub-Account pursuant to the terms hereof, an amount equal to the Pro Rata Portion of the principal to come due on the Bonds on the next succeeding Principal Payment Date.

(d) ***Investments.*** Moneys deposited in the Bond Account may be invested or deposited in securities or obligations that are Permitted Investments. The investment of moneys deposited in the Bond Account shall, however, be subject to the covenants and provisions of the section hereof titled “Federal Income Tax Covenants.” Except to the extent otherwise required by such section, all interest income from the investment or reinvestment of moneys deposited in any sub-account of the Bond Account shall remain in and become part of such sub-account.

Section 13. **Reserve Account.**

(a) ***Use of Moneys in Reserve Account.*** Moneys in the Reserve Account shall be used, if necessary, only to prevent a default in the payment of the principal of and interest on the Bonds when due. Moneys on deposit in the Reserve Account or moneys from liquidation of Permitted Investments on deposit in the Reserve Account shall be transferred to the Bond Account on any date on which a payment of principal of or interest on the Bonds is due to the extent the amount on deposit in the applicable sub-account of the Bond Account is insufficient to make such payments.

(b) ***Funding, Maintenance and Valuation of Reserve Account Requirement.*** The Reserve Account Requirement shall be funded and maintained by any one of or any combination of cash and Permitted Investments. Cash shall satisfy the Reserve Account Requirement by the amount of cash on deposit. Permitted Investments shall satisfy the Reserve Account Requirement by the value of such investments. The value of each Permitted Investment on deposit in the Reserve Account shall be (i) its purchase price from the date of purchase until the first date thereafter on which the Reserve Account Requirement is calculated pursuant to paragraph (c) of this section and (ii) following each date on which the Reserve Account Requirement is calculated pursuant to paragraph (c) of this section until the next date on which the Reserve Account Requirement is so calculated, its fair market value determined as of such calculation date.

(c) ***Calculation of Reserve Account Requirement and Transfers Resulting from Calculation.*** The Reserve Account Requirement shall be calculated as of the date of issuance of the Bonds and not less than annually thereafter. If at any time the calculated amount of the Reserve Account is less than the Reserve Account Requirement or transfers are made from the Reserve Account as provided in paragraph (a) hereof, then the Town shall deposit to the Reserve Account from the Pledged Revenues, amounts sufficient to bring the amount deposited in the Reserve Account to the Reserve Account Requirement. If at any time the calculated amount of the Reserve Account is more than the Reserve Account Requirement, then the Town shall transfer to the Bond Account such amount which is in excess of the Reserve Account Requirement. Such deposits shall be made as soon as possible after such use or calculation, but in accordance with and subject to the limitations of the section hereof titled "Deposit of Base Sales and Use Tax."

(d) ***Transfer of Interest Income to Bond Account.*** The investment of moneys deposited in the Reserve Account shall be subject to the covenants and provisions of the section hereof titled "Federal Income Tax Covenants." Except to the extent otherwise required by such section, interest income from the investment or reinvestment of moneys deposited in the Reserve Account shall be transferred to the Bond Account.

Section 14. Call of Series 2006 Bonds. Subject to the issuance of the Bonds, the Board hereby declares its intent to exercise on behalf of and in the name of the Town its option to redeem the Series 2006 Bonds on the Call Date. The Board hereby authorizes the Sale Delegate to irrevocably instruct the Bank to give or cause to be given a conditional notice of the optional

redemption of the Series 2006 Bonds in accordance with the ordinance authorizing the issuance of such bonds.

Section 15. **Pledge and Lien for Payment of Bonds.**

(a) ***Pledge of Revenues.*** The Town hereby pledges for the payment of the principal of and interest on the Bonds at any time Outstanding, (i) the Pledged Revenues, (ii) all moneys on deposit from time to time in the Bond Account and the Reserve Account, and (iii) any other legally available moneys of the Town, and grants a first lien (but not necessarily an exclusive first lien) for such purpose on the Base Sales and Use Tax.

(b) ***Superior Liens Prohibited.*** The Town shall not pledge or create any other lien on the revenues and moneys pledged pursuant to paragraph (a) of this Section that is superior to the pledge thereof or lien thereon pursuant to such paragraph.

(c) ***Subordinate Liens Permitted.*** Nothing herein shall prohibit the Town from issuing subordinate lien obligations and pledging or creating a lien on the revenues and moneys pledged and the lien created pursuant to paragraph (a) of this section that is subordinate to the pledge thereof or lien thereon pursuant to such paragraph, provided that no Event of Default shall have occurred and be continuing.

(d) ***No Prohibition on Additional Security.*** Nothing herein shall prohibit the Town from depositing any legally available revenues that are not Pledged Revenues into any account of the Capital Improvement Fund pledged to the payment of the Bonds (and thereby subjecting the moneys so deposited to the pledge made and lien granted in paragraph (a) of this Section).

(e) ***Bonds are Special, Limited Obligations of the Town.*** The Bonds are special, limited obligations of the Town payable solely from the Capital Improvement Fund and secured solely by the sources provided in this Ordinance. The Bonds shall not constitute a general obligation debt of the Town within the meaning of any statutory or constitutional limitation.

(f) ***Perfection of Security Interest.*** The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Bonds as provided herein shall be governed by Section 11-57-208, C.R.S. and the Enabling Law. The revenues pledged for the payment of the Bonds, as received by or otherwise credited to the Town, shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge on the revenues pledged for payment of the Bonds and the obligation to perform the contractual provisions made herein shall have priority over any or all other obligations and liabilities of the Town. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the Town irrespective of whether such persons have notice of such liens. Following the deposit of the Base Sales and Use Tax from time-to-time as set forth in the First through Third, inclusive, of the Section hereof entitled "Deposit of

Base Sales and Use Tax,” the lien of the Bonds on the balance of the Base Sales and Use Tax in excess of the required credits shall terminate.

Section 16. **Conditions to Issuance of Parity Lien Bonds.** The Town shall not issue Parity Lien Bonds unless the following conditions, as specified, are satisfied:

(a) ***Historical Test for Parity Lien Bonds; Special Test for Refundings.*** A Certified Public Accountant certifies in writing that either:

(i) the Base Sales and Use Tax for any 12 consecutive months in the 18 months immediately preceding the month in which such certification is delivered (referred to in this paragraph as the “test period”) have been equal to at least 200% of the sum of the Combined Maximum Principal and Interest Requirements due or to become due on the Bonds, any outstanding Parity Lien Bonds and the proposed Parity Lien Bonds during each calendar year following the date of issuance of the proposed Parity Lien Bonds until final maturity of the Bonds; or

(ii) the proceeds of the proposed Parity Lien Bonds will be used to refund all or any portion of the Bonds.

(b) ***Representations by Mayor.*** The Mayor or Mayor Pro Tem must certify that as of the date of issuance of the Parity Lien Bonds:

(i) the Town is in substantial compliance with all of the covenants of this Ordinance;

(ii) the Town is current in the accumulation of all amounts required to be then accumulated in the Bond Account and the Reserve Account; and

(iii) no Event of Default has occurred and is continuing under this Ordinance.

(c) ***Accounts for Parity Lien Bonds.*** The ordinance, indenture or other document providing for the issuance of the Parity Lien Bonds must provide for a separate reserve account and bond account for the Parity Lien Bonds; such accounts must be established and maintained on substantially the same terms and contain substantially the same provisions as set forth in this Ordinance for the Reserve Account and the Bond Account, respectively.

Section 17. **Additional General Covenants.** In addition to the other covenants of the Town contained herein, the Town hereby further covenants for the benefit of Owners of the Bonds that:

(a) ***Maintenance of Base Sales and Use Tax.*** The Town will not apply Base Sales and Use Tax revenues for any other purpose prior to the required deposits pursuant to this Ordinance, will not reduce the rate of the Base Sales and Use Tax, and will not alter, exempt or modify the transactions, properties or items subject to the Sales and Use

Tax in any manner that the Town expects will materially reduce the Base Sales and Use Tax; provided however, nothing in this section shall be construed as prohibiting the Base Sales and Use Tax to be superceded by a State or county sales and use tax which is intended to replace the Base Sales and Use Tax and which (i) is approved by the Town's electors voting at an election, (ii) is pledged to the payment of the principal of and interest on the Bonds, and (iii) results in a pledge of revenues from a sales and use tax on the sale or purchase of tangible personal property sold at retail or the furnishing of services within the City which is not materially different than the pledge of the Base Sales and Use Tax.

(b) ***Efficient Collection and Enforcement of the Sales and Use Tax.*** The Town will manage the collection and enforcement of the Sales and Use Tax in the most efficient and economical manner practicable.

(c) ***Inspection of Records.*** The Town will keep or cause to be kept such books and records showing the proceeds of the Sales and Use Tax, in which complete entries shall be made in accordance with generally accepted accounting principles, as applicable to governmental entities, and the Owner of any Bond shall have the right at all reasonable times to inspect all non confidential records, accounts, actions and data of the Town relating to the Bonds, the Sales and Use Tax and the Capital Improvement Fund.

(d) ***Annual Audit.*** The Town will cause an annual audit to be made of the books relating to the Sales and Use Tax and the Capital Improvement Fund each year by a Certified Public Accountant and shall furnish a copy thereof to the Underwriter at its request and to any Owner who so requests and agrees to pay the cost of reproduction and mailing. The annual audit of the Town's general purpose financial statements shall be deemed to satisfy this covenant.

Section 18. **Federal Income Tax Covenants.** For purposes of ensuring that the interest on the Bonds is and remains excluded from gross income for federal income tax purposes, the Town hereby covenants that:

(a) ***Prohibited Actions.*** The Town will not use or permit the use of any proceeds of the Bonds or any other funds of the Town from whatever source derived, directly or indirectly, to acquire any securities or obligations and shall not take or permit to be taken any other action or actions, which would cause any Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code, or would otherwise cause the interest on any Bond to be includible in gross income for federal income tax purposes.

(b) ***Affirmative Actions.*** The Town will at all times do and perform all acts permitted by law that are necessary in order to assure that interest paid by the Town on the Bonds shall not be includible in gross income for federal income tax purposes under the Code or any other valid provision of law. In particular, but without limitation, the Town represents, warrants and covenants to comply with the following rules unless it receives an opinion of Bond Counsel stating that such compliance is not necessary: (i) gross proceeds of the Bonds will not be used in a manner that will cause the Bonds to be considered "private activity bonds" within the meaning of the Code; (ii) the Bonds are

not and will not become directly or indirectly “federally guaranteed”; and (iii) the Town will timely file Internal Revenue Form 8038 G which shall contain the information required to be filed pursuant to Section 149(e) of the Code.

(c) ***Letter of Instructions.*** The Town will comply with the Letter of Instructions delivered to it on the date of issuance of the Bonds, including but not limited by the provisions of the Letter of Instructions regarding the application and investment of Bond proceeds, the calculations, the deposits, the disbursements, the investments and the retention of records described in the Letter of Instructions; provided that, in the event the original Letter of Instructions is superseded or amended by a new Letter of Instructions drafted by, and accompanied by an opinion of Bond Counsel stating that the use of the new Letter of Instructions will not cause the interest on the Bonds to become includible in gross income for federal income tax purposes, the Town will thereafter comply with the new Letter of Instructions.

Section 19. **Defeasance.** Any Bond shall not be deemed to be Outstanding hereunder if it shall have been paid and cancelled or if cash or Federal Securities shall have been deposited in trust for the payment thereof (whether upon or prior to the maturity of such Bond, but if such Bond is to be paid prior to maturity, the Town shall have given the Paying Agent irrevocable directions to give notice of redemption as required by this Ordinance, or such notice shall have been given in accordance with this Ordinance). In computing the amount of the deposit described above, the Town may include interest to be earned on the Federal Securities. If less than all the Bonds are to be defeased pursuant to this section, the Town, in its sole discretion, may select which of the Bonds shall be defeased.

Section 20. **Events of Default.** Each of the following events constitutes an Event of Default:

(a) ***Nonpayment of Principal or Interest.*** Failure to make any payment of principal of or interest on the Bonds when due hereunder;

(b) ***Breach or Nonperformance of Duties.*** Breach by the Town of any material covenant set forth herein or failure by the Town to perform any material duty imposed on it hereunder and continuation of such breach or failure for a period of 60 days after receipt by the Town Attorney of the Town of written notice thereof from the Paying Agent or from the Owners of at least 10% in principal amount of the Bond Obligation, provided that such 60 day period shall be extended so long as the Town has commenced and continues a good faith effort to remedy such breach or failure; or

(c) ***Appointment of Receiver.*** An order or decree is entered by a court of competent jurisdiction appointing a receiver for all or any portion of the revenues and moneys pledged for the payment of the Bonds pursuant hereto is entered with the consent or acquiescence of the Town or is entered without the consent or acquiescence of the Town but is not vacated, discharged or stayed within 30 days after it is entered.

Section 21. **Remedies for Events of Default.**

(a) ***Remedies.*** Upon the occurrence and continuance of any Event of Default, the Owners of not less than 25% in principal amount of the Bond Obligation, including, without limitation, a trustee or trustees therefor, may proceed against the Town to protect and to enforce the rights of any Owner of Bonds under this Ordinance by mandamus, injunction or by other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction: (i) for the payment of interest on any installment of principal of any Bond that was not paid when due at the interest rate borne by such bond, (ii) for the appointment of a receiver or an operating trustee, (iii) for the specific performance of any covenant contained herein, (iv) to enjoin any act that may be unlawful or in violation of any right of any Owner of any Bond, (v) to require the Town to act as if it were the trustee of an express trust, (vi) for any other proper legal or equitable remedy as such Owner may deem most effectual to protect their rights or (vii) any combination of such remedies or as otherwise may be authorized by any statute or other provision of law; provided, however, that acceleration of any amount not yet due on the Bonds according to their terms shall not be an available remedy. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of Bonds then Outstanding. Any receiver or operating trustee appointed in any proceedings to protect the rights of Owners of Bonds hereunder may collect, receive and apply all revenues and moneys pledged for the payment of the Bonds pursuant hereto arising after the appointment of such receiver or operating trustee in the same manner as the Town itself might do.

(b) ***Failure to Pursue Remedies Not a Release; Rights Cumulative.*** The failure of any Owner of any Bond then Outstanding to proceed in any manner herein provided shall not relieve the Town of any liability for failure to perform or carry out its duties hereunder. Each right or privilege of any such Owner (or trustee therefor) is in addition and is cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any Owner shall not be deemed a waiver of any other right or privilege thereof. Each Owner of any Bond shall be entitled to all of the privileges, rights and remedies provided or permitted in this Ordinance and as otherwise provided or permitted by law or in equity.

(c) ***Obligations of Town and Paying Agent in Connection with Events of Default.*** Upon the occurrence and continuation of any of Events of Default: (i) the Town shall take all proper acts to protect and preserve the security for the payment of the Bonds and to insure the payment of debt service on the Bonds promptly when due; (ii) the Town and the Paying Agent shall give the Owners of the Bonds then Outstanding notice by first class mail of (A) any default in the payment of or interest on the Bonds immediately after discovery thereof and (B) any other Event of Default within 30 days after discovery thereof. During the continuation of any Event of Default, except to the extent it may be unlawful to do so, all revenues and moneys pledged for the payment of the Bonds pursuant hereto shall be held for and applied to the debt service on all Bonds on an equitable and prorated basis. If the Town fails or refuses to proceed as provided in this paragraph, the Owners of not less than 25% in principal amount of the Bonds then Outstanding, after demand in writing, may proceed to protect and to enforce the rights of

the Owners of the Bonds as provided in this paragraph; and to that end any such rights of Owners of Bonds then Outstanding shall be subrogated to all rights of the Town under any agreement or contract involving the revenues and moneys pledged for the payment of the Bonds pursuant hereto that was entered into prior to the effective date of this Ordinance or thereafter while any of the Bonds are Outstanding. Nothing herein requires the Town to proceed as provided in this paragraph if it determines in good faith and without any abuse of its discretion that such action is likely to affect materially and prejudicially the Owners of the Bonds then Outstanding.

Section 22. **Amendment of Ordinance.**

(a) ***Amendments Permitted without Notice to or Consent of Owners.*** The Town may, without the consent of or notice to the Owners of the Bonds, adopt one or more ordinances amending or supplementing this Ordinance (which ordinances shall thereafter become a part hereof) for any one or more or all of the following purposes:

- (i) to cure any ambiguity or to cure, correct or supplement any defect or inconsistent provision of this Ordinance;
- (ii) to subject to this Ordinance additional revenues, properties or collateral;
- (iii) to facilitate the designation of a substitute securities depository or to terminate the book entry registration system for the Bonds in accordance with the section hereof titled “Bond Details”;
- (iv) to facilitate the issuance of Parity Lien Bonds permitted to be issued pursuant to the section hereof titled “Conditions to Issuance of Parity Lien Bonds”;
- (v) to facilitate the funding of the Reserve Account or the substitution of one source of funding of the Reserve Account for another permitted source in accordance with the section hereof titled “Reserve Account”;
- (vi) to maintain the then existing or to secure a higher rating of the Bonds by any nationally recognized securities rating agency; or
- (vii) to make any other change that does not materially adversely affect the Owners of the Bonds.

(b) ***Amendments Requiring Notice to and Consent of Owners.*** Except for amendments permitted by paragraph (a) of this section, this Ordinance may only be amended (i) by an ordinance of the Town amending or supplementing this Ordinance (which, after the consents required therefor, shall become a part hereof) and (ii) with the written consent of Owners of at least 66 2/3% in aggregate principal amount of the Bond Obligation; provided that any amendment that makes any of the following changes with respect to any Bond shall not be effective without the written consent of the Owner of such bond: (A) a change in the maturity of such Bond; (B) a reduction of the interest rate

on such Bond; (C) a change in the terms of redemption of such Bond; (D) a delay in the payment of principal of or interest on such Bond; (E) the creation of any pledge of or lien upon any revenues or moneys pledged for the payment of such Bond hereunder that is superior to the pledge and lien for the payment of such Bond hereunder; (F) a relaxation of the conditions to the issuance of Parity Lien Bonds or to the creation of any pledge of or lien upon any revenues or moneys pledged for the payment of such Bond hereunder that is equal to or on a parity with the pledge and lien for the payment of such Bond hereunder; (G) a reduction of the Bond Obligation the consent of the Owners of which is required for an amendment to this Ordinance; or (H) the establishment of a priority or preference for the payment of any amount due with respect to any other Bond over such Bond.

(c) ***Procedure for Notifying and Obtaining Consent of Owners.*** Whenever the consent of an Owner or Owners of Bonds is required under paragraph (b) of this Section, the Town shall mail a notice to such Owner or Owners at their addresses as set forth in the registration books maintained by the Paying Agent and to the Underwriter, which notice shall briefly describe the proposed amendment and state that a copy of the amendment is on file in the office of the Town Clerk for inspection. Any consent of any Owner of any Bond obtained with respect to an amendment shall be in writing and shall be final and not subject to withdrawal, rescission or modification for a period of 60 days after it is delivered to the Town unless another time period is stated for such purpose in the notice mailed pursuant to this paragraph.

Section 23. **Findings and Determinations.** Having been fully informed of and having considered all the pertinent facts and circumstances, the Board does hereby find, determine, and declare:

(a) The Board elects to apply all of the provisions of Title 11, Article 57, Part 2, C.R.S.;

(b) the Sales and Use Tax will not be increased as a result of the issuance of the Bonds;

(c) the issuance of the Bonds and all procedures undertaken incident thereto are in full compliance and conformity with all applicable requirements, provisions and limitations prescribed by the laws and the Constitution of the State, and other applicable law relating to the issuance of the Bonds have been satisfied; and

(d) it is to the best advantage of the Town and its residents that the Bonds be authorized, sold, issued and delivered at the time, in the manner and for the purposes provided in this Ordinance.

Section 24. **Appointment and Duties of Paying Agent.** The Paying Agent is hereby appointed as paying agent, registrar and authenticating agent for the Bonds unless and until the Town removes it as such and appoints a successor Paying Agent, in which event such successor shall automatically succeed to the duties of the Paying Agent hereunder and its predecessor shall immediately turn over all its records regarding the Bonds to such successor. The Paying Agent,

by accepting its duties as such, agrees to perform all duties and to take all actions assigned to it hereunder in accordance with the terms hereof. The appointment and acceptance of the duties of Paying Agent hereunder shall be affected through the execution of an agreement by the Paying Agent.

Section 25. Approval of Official Statement and Miscellaneous Documents. The Board hereby ratifies and approves the distribution and use of the Preliminary Official Statement; authorizes and directs the Town staff to prepare a final Official Statement for use in connection with the sale of the Bonds in substantially the form thereof presented to the Board at the meeting at which this Ordinance is adopted, with such changes therein, if any, not inconsistent herewith, as are approved by the Town; for a period of 180 days following the adoption of this Ordinance, the Sale Delegate is authorized to execute the Sale Certificate; and authorizes and approves the execution of the Bond Purchase Agreement, the DTC Blanket Letter of Representations and the Continuing Disclosure Undertaking. The Mayor and Mayor Pro Tem are hereby authorized and directed to execute the final Official Statement and the Mayor, Mayor Pro Tem, the Town Clerk and all other officers of the Town are hereby authorized and directed to execute all documents and certificates necessary or desirable to effectuate the issuance of the Bonds and the transactions contemplated hereby.

Section 26. Ratification of Prior Actions. All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the Board or by the officers and employees of the Town directed toward the issuance of the Bonds for the purposes herein set forth are hereby ratified, approved and confirmed.

Section 27. Events Occurring on Days That Are Not Business Days. Except as otherwise specifically provided herein with respect to a particular payment, event or action, if any payment to be made hereunder or any event or action to occur hereunder which, but for this section, is to be made or is to occur on a day that is not a Business Day shall instead be made or occur on the next succeeding day that is a Business Day.

Section 28. Limitation of Actions. In accordance with Section 11-57-212, C.R.S., no legal or equitable action can be brought with respect to any legislative acts or proceedings in connection with the authorization or issuance of the Bonds more than 30 days after the authorization of such securities.

Section 29. Headings. The headings to the various sections and paragraphs to this Ordinance have been inserted solely for the convenience of the reader, are not a part of this Ordinance, and shall not be used in any manner to interpret this Ordinance.

Section 30. Ordinance Irrepealable. After any of the Bonds have been issued, this Ordinance shall constitute a contract between the Owners and the Town, and shall be and remain irrepealable until the Bonds and the interest accruing thereon shall have been fully paid, satisfied, and discharged, as herein provided.

Section 31. Severability. It is hereby expressly declared that all provisions hereof and their application are intended to be and are severable. In order to implement such intent, if any provision hereof or the application thereof is determined by a court or administrative body to be

invalid or unenforceable, in whole or in part, such determination shall not affect, impair or invalidate any other provision hereof or the application of the provision in question to any other situation; and if any provision hereof or the application thereof is determined by a court or administrative body to be valid or enforceable only if its application is limited, its application shall be limited as required to most fully implement its purpose.

Section 32. **Repealer.** All orders, bylaws, ordinances, and resolutions of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

Section 33. **Effective Date.** This Ordinance shall become effective thirty days following publication in a newspaper published within the Town, or if there is none, in some newspaper of general circulation in the Town, in accordance with the requirements of Section 1-47 of the Frederick Municipal Code.

PASSED AND ADOPTED and ordered published this ____ day of January, 2015.

TOWN OF FREDERICK, COLORADO

By _____
Mayor

ATTEST:

By _____
Town Clerk

R ____

\$ _____

APPENDIX A

FORM OF THE BOND

EXCEPT AS OTHERWISE PROVIDED IN THE HEREINAFTER DEFINED ORDINANCE, THIS GLOBAL BOOK ENTRY BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY (AS DEFINED HEREIN) OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY.

UNITED STATES OF AMERICA

TOWN OF FREDERICK, COLORADO SALES AND USE TAX REVENUE REFUNDING BONDS SERIES 2015

Interest Rate: **Maturity Date:** **Original Dated Date:** **CUSIP:**

% December __, 20____, 2015

REGISTERED OWNER:

PRINCIPAL SUM: **

DOLLARS**

TOWN OF FREDERICK, COLORADO, in the State of Colorado, a duly organized and validly existing statutory Town and political subdivision of the State of Colorado, for value received, hereby promises to pay to the order of the registered owner named above or registered assigns, solely from the special funds as hereinafter set forth, on the maturity date stated above, the principal sum stated above, in lawful money of the United States of America, with interest thereon from the original dated date stated above, at the interest rate per annum stated above, payable on _____ and _____ of each year, commencing _____, 2015 the principal of and the final installment of interest on this bond being payable to the registered owner hereof upon presentation and surrender of this bond at the principal operations office of UMB Bank, n.a., as Paying Agent, in Kansas City, Missouri, or at such other location as identified by the Paying Agent, and the interest hereon (other than the final installment of interest hereon) to be paid by check or draft of the Paying Agent mailed on the Interest Payment Date to the registered owner hereof as of the close of business on the fifteenth day (whether or not such day is a Business Day) of the calendar month next preceding the Interest Payment Date, except that so long as Cede & Co. is the registered owner of this bond, the principal of and interest on this bond shall be paid by wire transfer to Cede & Co.

CAPITALIZED TERMS USED IN THIS BOND SHALL HAVE THE MEANINGS SET FORTH IN THE ORDINANCE ADOPTED BY THE BOARD PRIOR TO THE ISSUANCE OF THIS BOND. THE ORDINANCE CONSTITUTES THE CONTRACT BETWEEN THE REGISTERED OWNER OF THIS BOND AND THE TOWN. THIS BOND

IS ONLY EVIDENCE OF SUCH CONTRACT AND, AS SUCH, IS SUBJECT IN ALL RESPECTS TO THE TERMS OF THE ORDINANCE, WHICH SUPERSEDES ANY INCONSISTENT STATEMENT IN THIS BOND.

This Bond is one of an issue of bonds of the Town designated Sales and Use Tax Revenue Refunding Bonds, Series 2015, issued in the principal amount of \$_____. The Bonds are being issued by the Town for the purposes set forth in the Ballot Question pursuant to and in full conformity with the Constitution and laws of the State of Colorado, prior voter approval and the Ordinance of the Town.

[Redemption Provisions established in the Sale Certificate to be Inserted Here.]

The Paying Agent shall maintain registration books in which the ownership, transfer and exchange of the Bonds shall be recorded. The person in whose name this bond shall be registered on such registration books shall be deemed to be the absolute owner hereof for all purposes, whether or not payment on this bond shall be overdue, and neither the Town nor the Paying Agent shall be affected by any notice or other information to the contrary. This bond may be transferred or exchanged, at the principal operations office of the Paying Agent in Denver, Colorado, or at such other location as identified by the Paying Agent, for a like aggregate principal amount of the Bonds of other authorized denominations (\$5,000 or any integral multiple thereof) of the same maturity and interest rate, upon payment by the transferee of a transfer fee, any tax or governmental charge required to be paid with respect to such transfer or exchange and any cost of printing bonds in connection therewith.

The Bonds are special, limited obligations of the Town payable solely from and secured solely by the sources provided in the Ordinance and shall not constitute a general obligation debt of the Town within the meaning of any statutory or constitutional limitation. Pursuant to the Ordinance the Town pledged for the payment of the principal of and interest on the Bonds at any time outstanding (i) the revenues from the Base Sales and Use Tax, (ii) all moneys on deposit from time to time in the Bond Account and the Reserve Account, and (iii) any other legally available moneys of the Town, and granted a lien for such purpose on the Base Sales and Use Tax. The Town is authorized to grant a lien on a parity with the lien for the payment of the Bonds on the Base Sales and Use Tax for the payment of other bonds or obligations upon satisfaction of certain conditions set forth in the Ordinance. This bond is issued under the authority of the constitution and laws of the State of Colorado and pursuant to the Ordinance.

The Town agrees with the owner of this bond and with each and every person who may become the owner hereof, that it will keep and perform all the covenants and agreements contained in the Ordinance.

The Ordinance may be amended or supplemented from time to time with or without the consent of the registered owners of the Bonds as provided in the Ordinance.

It is hereby certified that all conditions, acts and things required by the constitution and laws of the State of Colorado, and the ordinances of the Town, to exist, to happen and to be performed, precedent to and in the issuance of this bond, exist, have happened and have been

performed, and that the Bonds do not exceed any limitations prescribed by the Constitution or laws of the State of Colorado, or the ordinances of the Town.

This bond shall not be entitled to any benefit under the Ordinance, or become valid or obligatory for any purpose, until the Paying Agent shall have signed the certificate of authentication hereon.

IN WITNESS WHEREOF, Town of Frederick, Colorado, has caused this bond to be signed in the name and on behalf of the Town with the manual or facsimile signature of the Mayor or Mayor Pro Tem, to be sealed with the seal of the Town or a facsimile thereof and to be attested by the manual or facsimile signature of the Town Clerk.

[MANUAL OR FACSIMILE SEAL]

TOWN OF FREDERICK, COLORADO

By (Manual or Facsimile Signature)
Mayor

ATTEST:

By (Manual or Facsimile Signature)
Town Clerk

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within mentioned Ordinance.

UMB BANK, n.a., *as Paying Agent*

By _____
Authorized Representative

Date of Authentication: _____

CERTIFICATE OF TRANSFER

FOR VALUE RECEIVED, _____, the undersigned, hereby sells, assigns and transfers unto _____ (Tax Identification or Social Security No. _____) the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

TRANSFER FEE MAY BE REQUIRED

Town of Frederick, Colorado
Current Refunding Series 2006 Bond Options

Scenario	Series	Par Amount	True Interest Cost	Project Fund Amount	Average Annual Net Debt Service	Average Annual Savings (\$)	Present Value Savings (\$)	Present Value Savings (%)
Plan A - Refunding and New Money	Series 2015A Sales and Use Tax Revenue Refunding Bonds	\$3,300,000	2.33%	N/A	\$269,058	\$98,834	\$361,916	10.33%
	Series 2015B Sales and Use Tax Revenue Bonds	\$1,045,000	2.27%	\$1,118,760	\$94,401	N/A	N/A	N/A
	Combined Series 2015A&B	\$4,345,000	2.31%	\$1,118,760	\$363,460	\$98,834	\$361,916	10.33%
Plan B - Refunding Only	Series 2015 Sales and Use Tax Revenue Refunding Bonds	\$3,005,000	2.10%	N/A	\$378,151	\$74,750	\$429,254	12.25%

Town of Frederick, Colorado

Sales and Use Tax Revenue and Refunding Bonds, Assumed "AA" Rated

Series 2015A&B

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Town of Frederick, Colorado

Sales and Use Tax Revenue and Refunding Bonds, Assumed "AA" Rated

Series 2015A&B

Total Issue Sources And Uses

Dated 04/01/2015 | Delivered 04/01/2015

	Series 2015A	Series 2015B	Issue Summary
Sources Of Funds			
Par Amount of Bonds.....	\$3,300,000.00	\$1,045,000.00	\$4,345,000.00
Reoffering Premium.....	305,345.15	92,266.25	397,611.40
Transfers from Prior Issue Debt Service Funds.....	370,000.00	-	370,000.00
Total Sources.....	\$3,975,345.15	\$1,137,266.25	\$5,112,611.40
Uses Of Funds			
Total Underwriter's Discount (0.750%).....	24,750.00	7,837.50	32,587.50
Costs of Issuance.....	30,379.75	9,620.25	40,000.00
Deposit to Debt Service Reserve Fund (DSRF).....	370,000.00	-	370,000.00
Deposit to Project Construction Fund.....	-	1,118,760.00	1,118,760.00
Deposit to Current Refunding Fund.....	3,548,065.44	-	3,548,065.44
Rounding Amount.....	2,149.96	1,048.50	3,198.46
Total Uses.....	\$3,975,345.15	\$1,137,266.25	\$5,112,611.40

Town of Frederick, Colorado

Sales and Use Tax Revenue and Refunding Bonds, Assumed "AA" Rated

Series 2015A&B

Net Debt Service Comparison

Date	Principal	Interest	DSR	New D/S	OLD D/S	Savings
12/15/2015	285,000	96,626	(5,217)	376,409	381,260	4,850.82
12/15/2016	250,000	131,250	(7,400)	373,850	376,860	3,010.00
12/15/2017	255,000	126,250	(7,400)	373,850	377,260	3,410.00
12/15/2018	260,000	121,150	(7,400)	373,750	377,260	3,510.00
12/15/2019	270,000	114,650	(7,400)	377,250	381,600	4,350.00
12/15/2020	275,000	107,225	(7,400)	374,825	380,325	5,500.00
12/15/2021	280,000	98,975	(7,400)	371,575	378,355	6,780.00
12/15/2022	290,000	90,575	(7,400)	373,175	375,965	2,790.00
12/15/2023	300,000	81,875	(7,400)	374,475	373,155	(1,320.00)
12/15/2024	310,000	72,875	(7,400)	375,475	379,768	4,292.50
12/15/2025	315,000	62,800	(7,400)	370,400	380,530	10,130.00
12/15/2026	330,000	50,200	(7,400)	372,800	375,480	2,680.00
12/15/2027	340,000	37,000	(7,400)	369,600	-	(369,600.00)
12/15/2028	585,000	23,400	(377,400)	231,000	-	(231,000.00)
Total	\$4,345,000	\$1,214,851	(471,417)	\$5,088,434	\$4,537,818	(550,616.68)

PV Analysis Summary (Gross to Gross)

Gross PV Debt Service Savings.....	(779,437.68)
Transfers from Prior Issue Debt Service Fund.....	(370,000.00)
Amount deposited into new DSR Fund.....	370,000.00
Amount deposited into Construction Fund.....	1,118,760.00
Contingency or Rounding Amount.....	3,198.46
Net Present Value Benefit.....	\$342,520.78
Net PV Benefit / \$3,505,000 Refunded Principal.....	9.772%
Net PV Benefit / - Refunding Principal.....	7.883%

Refunding Bond Information

Refunding Dated Date.....	4/01/2015
Refunding Delivery Date.....	4/01/2015

Town of Frederick, Colorado

Sales and Use Tax Revenue and Refunding Bonds, Assumed "AA" Rated

Series 2015A&B

Pricing Summary

Maturity	Type of Bond	Coupon	Yield	Maturity Value	Price	Dollar Price
12/15/2015	Serial Coupon	2.000%	0.400%	285,000	101.125%	288,206
12/15/2016	Serial Coupon	2.000%	0.750%	250,000	102.113%	255,283
12/15/2017	Serial Coupon	2.000%	1.050%	255,000	102.526%	261,441
12/15/2018	Serial Coupon	2.500%	1.250%	260,000	104.511%	271,729
12/15/2019	Serial Coupon	2.750%	1.500%	270,000	105.657%	285,274
12/15/2020	Serial Coupon	3.000%	1.700%	275,000	107.038%	294,355
12/15/2021	Serial Coupon	3.000%	1.850%	280,000	107.219%	300,213
12/15/2022	Serial Coupon	3.000%	2.000%	290,000	107.106%	310,607
12/15/2023	Serial Coupon	3.000%	2.100%	300,000	107.124%	321,372
12/15/2024	Serial Coupon	3.250%	2.200%	310,000	109.129%	338,300
12/15/2025	Serial Coupon	4.000%	2.250%	315,000	116.564%	367,177
12/15/2026	Serial Coupon	4.000%	2.300%	330,000	116.047%	c 382,955
12/15/2027	Serial Coupon	4.000%	2.350%	340,000	115.534%	c 392,816
12/15/2028	Serial Coupon	4.000%	2.400%	585,000	115.023%	c 672,885
Total	-	-	-	\$4,345,000	- -	\$4,742,611

Bid Information

Par Amount of Bonds.....	\$4,345,000.00
Reoffering Premium or (Discount).....	397,611.40
Gross Production.....	\$4,742,611.40
Total Underwriter's Discount (0.750%).....	\$(32,587.50)
Bid (108.401%).....	4,710,023.90
Total Purchase Price.....	\$4,710,023.90
Bond Year Dollars.....	\$34,425.64
Average Life.....	7.923 Years
Average Coupon.....	3.5289130%
Net Interest Cost (NIC).....	2.4685873%
True Interest Cost (TIC).....	2.3130839%

Town of Frederick, Colorado

Sales and Use Tax Revenue and Refunding Bonds, Assumed "AA" Rated

Series 2015A&B

Net Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I	DSR	Net New D/S
12/15/2015	285,000	2.000%	96,626	381,626	(5,217)	376,409
12/15/2016	250,000	2.000%	131,250	381,250	(7,400)	373,850
12/15/2017	255,000	2.000%	126,250	381,250	(7,400)	373,850
12/15/2018	260,000	2.500%	121,150	381,150	(7,400)	373,750
12/15/2019	270,000	2.750%	114,650	384,650	(7,400)	377,250
12/15/2020	275,000	3.000%	107,225	382,225	(7,400)	374,825
12/15/2021	280,000	3.000%	98,975	378,975	(7,400)	371,575
12/15/2022	290,000	3.000%	90,575	380,575	(7,400)	373,175
12/15/2023	300,000	3.000%	81,875	381,875	(7,400)	374,475
12/15/2024	310,000	3.250%	72,875	382,875	(7,400)	375,475
12/15/2025	315,000	4.000%	62,800	377,800	(7,400)	370,400
12/15/2026	330,000	4.000%	50,200	380,200	(7,400)	372,800
12/15/2027	340,000	4.000%	37,000	377,000	(7,400)	369,600
12/15/2028	585,000	4.000%	23,400	608,400	(377,400)	231,000
Total	\$4,345,000	-	\$1,214,851	\$5,559,851	(471,417)	\$5,088,434

Town of Frederick, Colorado

Sales and Use Tax Revenue Refunding Bonds, Assumed "AA" Rated

Series 2015A

Net Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I	DSR	Net New D/S
12/15/2015	215,000	2.000%	73,731	288,731	(5,217)	283,514
12/15/2016	185,000	2.000%	100,200	285,200	(7,400)	277,800
12/15/2017	190,000	2.000%	96,500	286,500	(7,400)	279,100
12/15/2018	195,000	2.500%	92,700	287,700	(7,400)	280,300
12/15/2019	200,000	2.750%	87,825	287,825	(7,400)	280,425
12/15/2020	205,000	3.000%	82,325	287,325	(7,400)	279,925
12/15/2021	210,000	3.000%	76,175	286,175	(7,400)	278,775
12/15/2022	215,000	3.000%	69,875	284,875	(7,400)	277,475
12/15/2023	225,000	3.000%	63,425	288,425	(7,400)	281,025
12/15/2024	230,000	3.250%	56,675	286,675	(7,400)	279,275
12/15/2025	235,000	4.000%	49,200	284,200	(7,400)	276,800
12/15/2026	245,000	4.000%	39,800	284,800	(7,400)	277,400
12/15/2027	255,000	4.000%	30,000	285,000	(7,400)	277,600
12/15/2028	495,000	4.000%	19,800	514,800	(377,400)	137,400
Total	\$3,300,000	-	\$938,231	\$4,238,231	(471,417)	\$3,766,814

Town of Frederick, Colorado

Sales and Use Tax Revenue Bonds

Series 2006

Total Refunded Debt Service

Date	Principal	Coupon	Interest	Total P+I
12/15/2015	235,000	4.000%	146,260	381,260
12/15/2016	240,000	4.000%	136,860	376,860
12/15/2017	250,000	4.000%	127,260	377,260
12/15/2018	260,000	4.100%	117,260	377,260
12/15/2019	275,000	4.100%	106,600	381,600
12/15/2020	285,000	4.200%	95,325	380,325
12/15/2021	295,000	4.200%	83,355	378,355
12/15/2022	305,000	4.200%	70,965	375,965
12/15/2023	315,000	4.250%	58,155	373,155
12/15/2024	335,000	4.250%	44,768	379,768
12/15/2025	350,000	4.300%	30,530	380,530
12/15/2026	360,000	4.300%	15,480	375,480
Total	\$3,505,000	-	\$1,032,818	\$4,537,818

Yield Statistics

Base date for Avg. Life & Avg. Coupon Calculation.....	4/01/2015
Average Life.....	6.681 Years
Average Coupon.....	4.2264635%
Weighted Average Maturity (Par Basis).....	6.681 Years

Refunding Bond Information

Refunding Dated Date.....	4/01/2015
Refunding Delivery Date.....	4/01/2015

Town of Frederick, Colorado
Sales and Use Tax Revenue Bonds, Assumed "AA" Rated
Series 2015B

Net Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I	Net New D/S
12/15/2015	70,000	2.000%	22,895	92,895	92,895
12/15/2016	65,000	2.000%	31,050	96,050	96,050
12/15/2017	65,000	2.000%	29,750	94,750	94,750
12/15/2018	65,000	2.500%	28,450	93,450	93,450
12/15/2019	70,000	2.750%	26,825	96,825	96,825
12/15/2020	70,000	3.000%	24,900	94,900	94,900
12/15/2021	70,000	3.000%	22,800	92,800	92,800
12/15/2022	75,000	3.000%	20,700	95,700	95,700
12/15/2023	75,000	3.000%	18,450	93,450	93,450
12/15/2024	80,000	3.250%	16,200	96,200	96,200
12/15/2025	80,000	4.000%	13,600	93,600	93,600
12/15/2026	85,000	4.000%	10,400	95,400	95,400
12/15/2027	85,000	4.000%	7,000	92,000	92,000
12/15/2028	90,000	4.000%	3,600	93,600	93,600
Total	\$1,045,000	-	\$276,620	\$1,321,620	\$1,321,620

Town of Frederick, Colorado

Sales and Use Tax Revenue Refunding Bonds, Assumed "AA" Rated

Series 2015

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Town of Frederick, Colorado

Sales and Use Tax Revenue Refunding Bonds, Assumed "AA" Rated

Series 2015

Sources & Uses

Dated 04/01/2015 | Delivered 04/01/2015

Sources Of Funds

Par Amount of Bonds.....	\$3,005,000.00
Reoffering Premium.....	226,484.60
Transfers from Prior Issue Debt Service Funds.....	370,000.00

Total Sources..... \$3,601,484.60

Uses Of Funds

Total Underwriter's Discount (0.750%).....	22,537.50
Costs of Issuance.....	30,379.75
Deposit to Current Refunding Fund.....	3,548,065.44
Rounding Amount.....	501.91

Total Uses..... \$3,601,484.60

Town of Frederick, Colorado

Sales and Use Tax Revenue Refunding Bonds, Assumed "AA" Rated

Series 2015

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I
12/15/2015	245,000	2.000%	62,045	307,045
12/15/2016	220,000	2.000%	83,038	303,038
12/15/2017	220,000	2.000%	78,638	298,638
12/15/2018	230,000	2.500%	74,238	304,238
12/15/2019	235,000	2.750%	68,488	303,488
12/15/2020	245,000	3.000%	62,025	307,025
12/15/2021	250,000	3.000%	54,675	304,675
12/15/2022	255,000	3.000%	47,175	302,175
12/15/2023	265,000	3.000%	39,525	304,525
12/15/2024	270,000	3.250%	31,575	301,575
12/15/2025	280,000	4.000%	22,800	302,800
12/15/2026	290,000	4.000%	11,600	301,600
Total	\$3,005,000	-	\$635,820	\$3,640,820

Yield Statistics

Bond Year Dollars.....	\$19,460.19
Average Life.....	6.476 Years
Average Coupon.....	3.2672838%
Net Interest Cost (NIC).....	2.2192619%
True Interest Cost (TIC).....	2.1034144%
Bond Yield for Arbitrage Purposes.....	1.9589546%
All Inclusive Cost (AIC).....	2.2664130%

IRS Form 8038

Net Interest Cost.....	1.9136796%
Weighted Average Maturity.....	6.619 Years

Town of Frederick, Colorado

Sales and Use Tax Revenue Refunding Bonds, Assumed "AA" Rated

Series 2015

Debt Service Comparison

Date	Total P+I	Net New D/S	Old Net D/S	Savings
12/15/2015	307,045	307,045	381,260	74,215.21
12/15/2016	303,038	303,038	376,860	73,822.50
12/15/2017	298,638	298,638	377,260	78,622.50
12/15/2018	304,238	304,238	377,260	73,022.50
12/15/2019	303,488	303,488	381,600	78,112.50
12/15/2020	307,025	307,025	380,325	73,300.00
12/15/2021	304,675	304,675	378,355	73,680.00
12/15/2022	302,175	302,175	375,965	73,790.00
12/15/2023	304,525	304,525	373,155	68,630.00
12/15/2024	301,575	301,575	379,768	78,192.50
12/15/2025	302,800	302,800	380,530	77,730.00
12/15/2026	301,600	301,600	375,480	73,880.00
Total	\$3,640,820	\$3,640,820	\$4,537,818	\$896,997.71

PV Analysis Summary (Gross to Gross)

Gross PV Debt Service Savings.....	798,752.33
Net PV Cashflow Savings @ 1.959%(Bond Yield).....	798,752.33
Transfers from Prior Issue Debt Service Fund.....	(370,000.00)
Contingency or Rounding Amount.....	501.91
Net Present Value Benefit.....	\$429,254.24
Net PV Benefit / \$3,505,000 Refunded Principal.....	12.247%
Net PV Benefit / \$3,005,000 Refunding Principal.....	14.285%

Refunding Bond Information

Refunding Dated Date.....	4/01/2015
Refunding Delivery Date.....	4/01/2015

Town of Frederick, Colorado

Sales and Use Tax Revenue Refunding Bonds, Assumed "AA" Rated

Series 2015

Pricing Summary

Maturity	Type of Bond	Coupon	Yield	Maturity Value	Price	Dollar Price
12/15/2015	Serial Coupon	2.000%	0.400%	245,000	101.125%	247,756
12/15/2016	Serial Coupon	2.000%	0.750%	220,000	102.113%	224,649
12/15/2017	Serial Coupon	2.000%	1.050%	220,000	102.526%	225,557
12/15/2018	Serial Coupon	2.500%	1.250%	230,000	104.511%	240,375
12/15/2019	Serial Coupon	2.750%	1.500%	235,000	105.657%	248,294
12/15/2020	Serial Coupon	3.000%	1.700%	245,000	107.038%	262,243
12/15/2021	Serial Coupon	3.000%	1.850%	250,000	107.219%	268,048
12/15/2022	Serial Coupon	3.000%	2.000%	255,000	107.106%	273,120
12/15/2023	Serial Coupon	3.000%	2.100%	265,000	107.124%	283,879
12/15/2024	Serial Coupon	3.250%	2.200%	270,000	109.129%	294,648
12/15/2025	Serial Coupon	4.000%	2.250%	280,000	116.564%	326,379
12/15/2026	Serial Coupon	4.000%	2.300%	290,000	116.047% c	336,536
Total	-	-	-	\$3,005,000	-	\$3,231,485

Bid Information

Par Amount of Bonds.....	\$3,005,000.00
Reoffering Premium or (Discount).....	226,484.60
Gross Production.....	\$3,231,484.60
Total Underwriter's Discount (0.750%).....	\$(22,537.50)
Bid (106.787%).....	3,208,947.10
Total Purchase Price.....	\$3,208,947.10
Bond Year Dollars.....	\$19,460.19
Average Life.....	6.476 Years
Average Coupon.....	3.2672838%
Net Interest Cost (NIC).....	2.2192619%
True Interest Cost (TIC).....	2.1034144%

Town of Frederick, Colorado

Sales and Use Tax Revenue Bonds

Series 2006

Total Refunded Debt Service

Date	Principal	Coupon	Interest	Total P+I
12/15/2015	235,000	4.000%	146,260	381,260
12/15/2016	240,000	4.000%	136,860	376,860
12/15/2017	250,000	4.000%	127,260	377,260
12/15/2018	260,000	4.100%	117,260	377,260
12/15/2019	275,000	4.100%	106,600	381,600
12/15/2020	285,000	4.200%	95,325	380,325
12/15/2021	295,000	4.200%	83,355	378,355
12/15/2022	305,000	4.200%	70,965	375,965
12/15/2023	315,000	4.250%	58,155	373,155
12/15/2024	335,000	4.250%	44,768	379,768
12/15/2025	350,000	4.300%	30,530	380,530
12/15/2026	360,000	4.300%	15,480	375,480
Total	\$3,505,000	-	\$1,032,818	\$4,537,818

Yield Statistics

Base date for Avg. Life & Avg. Coupon Calculation.....	4/01/2015
Average Life.....	6.681 Years
Average Coupon.....	4.2264635%
Weighted Average Maturity (Par Basis).....	6.681 Years

Refunding Bond Information

Refunding Dated Date.....	4/01/2015
Refunding Delivery Date.....	4/01/2015



TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Laura Brown, Mayor Pro Tem
Rafer Burnham, Trustee
Fred Skates, Trustee

Tony Carey, Mayor

Amy Schiers, Trustee
Gavin Payne, Trustee
Donna Hudziak, Trustee

TO CONSIDER THE TENTH INTERIM AGREEMENT WITH THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT, FOR PARTICIPATION IN THE NORTHERN INTEGRATED SUPPLY PROJECT (NISP)

Agenda Date: Town Board Meeting – January 13, 2015

Attachments: a. Tenth Interim Agreement with the Northern Colorado Water
Conservancy District for Participation in NISP.

Finance Review:

Finance Director

Submitted by:

Richard Leffler, P.E.
Engineering & Utilities Director

Approved for Presentation:

Matthew J. Ziegler
Town Manager

☐ Quasi-Judicial

☐ Legislative

☒ Administrative

Summary Statement:

Approval of the attached Tenth Interim Agreement with the Northern Colorado Water Conservancy District (NCWCD or Northern Water) would commit the Town to continuing its participation in the Northern Integrated Supply Project (NISP).

Detail of Issue/Request:

On January 10, 2008, Frederick assumed Berthoud's 1,300 share interest in NISP and on December 8, 2009, Frederick formalized the transfer of 1,300 shares of Central Weld County Water District's (CWCWD) interest in NISP to the Town. Both of these actions were subject to the Fourth Interim Agreement with NCWCD. The Town Board has approved the Fifth through the Ninth Interim Agreement in subsequent years. The attached Tenth Interim Agreement with NCWCD specifies the amounts that each of the participants will be expected to pay to continue their participation in NISP. As specified in the attached agreement, Frederick's cost to continue to participate in Phase 3A for 2015 is

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\$104,000. Phase 3A consists of a continuation of the permitting work with the U.S. Army Corp of Engineers, and other activities associated with preparation of the Supplemental Draft EIS (SDEIS) for NISP. It also includes work in support of the public information effort for NISP and overall Northern Water administration and legal support. The current schedule has the SDEIS available to the public by the end of 2015 and then there will be another public review period. The next phases would be design and construction of improvements following the issuance of a permit by the U.S. Army Corp of Engineers. There could be a request for more funds in 2015 from Frederick and other participants if it is decided to acquire additional land or highway right-of-way for the project or if design costs come earlier in the schedule. There are adequate funds in the 2015 budget to cover the Town's \$104,000 costs for Phase 3A plus possible land acquisition and design costs.

NISP is a proposed water supply project being coordinated by NCWCD that would create 40,000 acre-feet of new water supplies to 15 water providers. This water is developed by constructing off-stream reservoirs to capture peak river flows without contributing to agricultural dry-up. Frederick is currently a participant in NISP in the amount of 2,600 shares which will yield 2,600 acre-feet of high quality water. A mixture of cash, bonds and/or low-interest loans are expected to finance the total project, which is now estimated at \$500 million, or about \$12,500 per acre foot of water. Colorado-Big Thompson (CBT) water is currently going for about \$26,000 to \$36,000 per acre foot, depending on market values and the yield assigned to a CBT unit. It should be noted that over half of the NISP water supplies are fully consumable, unlike CBT water. Studies by our water engineering consultants have indicated that we will ultimately need about 4,000 acre-feet of additional potable water supplies above what we now own and that the NISP project appears to be the best option that is available to the Town.

Legal/Political Considerations:

The attached agreement has been reviewed by the Town Attorney and is acceptable in form and content.

Alternatives/Options:

Not approve the attached agreement and search for other water supplies. The other current sources of high quality water identified by staff and consultants are CBT and Windy Gap. The current price for CBT water is now around \$25,000 per unit which is equivalent to about \$36,000 per acre-foot of average yield. This is much higher than the projected \$12,500 per acre-foot costs for NISP. There are limited supplies of CBT available and NCWCD regulations may limit the Town's ability to acquire large blocks of CBT. Staff has been unable to locate Windy Gap shares that are for sale and the cost is estimated to be well over \$20,000 per acre-foot. It is staff's opinion that NISP is the preferred option at this time.

Financial Considerations:

Water Funds are budgeted in 2015 for costs associated with continued participation in NISP.

Staff Recommendation:

Staff recommends that the Board approve the attached Tenth Interim Agreement with the Northern Colorado Water Conservancy District, Northern Integrated Supply Project Water Activity Enterprise, for continued Participation in the Northern Integrated Supply Project.

TENTH INTERIM AGREEMENT WITH THE
NORTHERN COLORADO WATER CONSERVANCY DISTRICT,
NORTHERN INTEGRATED SUPPLY PROJECT WATER ACTIVITY ENTERPRISE,
FOR PARTICIPATION IN THE
NORTHERN INTEGRATED SUPPLY PROJECT

This Agreement is made and entered into as of _____, 2015 by and between the Northern Colorado Water Conservancy District (a quasi-municipal entity and political subdivision of the State of Colorado), acting by and through its Northern Integrated Supply Project Water Activity Enterprise (a government-owned business within the meaning of Article X, Section 20(2)(d), of the Colorado Constitution, organized pursuant to C.R.S. §§ 37-45.1-101 et seq.), whose address is 220 Water Avenue, Berthoud, Colorado 80513 (the "NISP Enterprise"), and Town of Frederick, whose address is PO Box 435, Frederick, CO 80530-0435 ("Participant").

Recitals

- A. The NISP Enterprise is developing a water project (the "Project") for the purpose of developing a new reliable water supply for the beneficial use of the Participant and other entities.
- B. Overall Project costs will be divided among the entities that participate in the Project.
- C. The First Phase of the Project consisted of preliminary studies to evaluate potential Poudre reservoir sites and the South Platte Water Conservation Project. The First Phase has been accomplished and there appear to be potential project configurations that may serve the needs of the Project.
- D. The Second Phase of the Project consisted of additional reservoir site evaluations, alternatives analysis, environmental studies, financial analyses, and related work. The Second Phase has been completed and the participants have selected alternatives that may serve the needs of the Project.
- E. The NISP Enterprise has commenced the Third Phase of the Project. The Third Phase, Years 1 and 2 (2004 and 2005), consisted of agency consultation, commencement of permitting with the U.S. Army Corps of Engineers and other agencies, commencement of compliance with the National Environmental Policy Act and other requirements for federal permitting, commencement of field work and analysis for permitting, modeling, and other activities related to designing and permitting the Project.
- F. The Third Phase, Year 3 through Year 6 (2006, 2007, 2008, and 2009), consisted of continuation of agency consultation, permitting with the U.S. Army Corps of Engineers and other agencies, compliance with the National Environmental Policy Act and other requirements for federal permitting, field work and analysis for permitting, modeling, and other activities related to designing and permitting the Project.

- G. The Third Phase, Years 7 through 12 (hereinafter referred to as "Phase 3A"), will consist of further agency consultation, permitting with the U.S. Army Corps of Engineers and other agencies, compliance with the National Environmental Policy Act and other requirements for federal permitting, field work and analysis for permitting, modeling, and other activities related to designing and permitting the Project.
- H. It is necessary that the NISP Enterprise pursue Phase 3A of the Project at this time in order to be able to complete the Project on the time schedule desired by the participants.
- I. Continuation and completion of the Third Phase of the Project on behalf of the participants will require continued funding from the participants.

Agreement

1. Participant agrees to participate in Phase 3A of the Project to continue agency consultation, permitting work with the U.S. Army Corps of Engineers and other agencies, compliance with the National Environmental Policy Act and other requirements for federal permitting, field work and analysis for permitting, modeling, and other activities related to designing and permitting the Project, under and pursuant to the terms and conditions of this Agreement. Participant acknowledges that it shares a common interest in development of the Project and that privileged material may be shared with the Participant from time to time. A description of Phase 3A is included in Exhibit A. Participation in Phase 3A of the Project in no way obligates Participant to subsequent phases of the Project or to continue involvement in the Project in any manner.
2. For the purposes of cost allocation in Phase 3A, the cost is based upon the Participant's base requested capacity divided by the total requested base Project yield. The Participant's initial base requested capacity in the Project is 2600 acre-feet of water yield. Attached hereto as Exhibit B is a table showing the currently anticipated permitted capacity in the Project and the pro rata share of the costs of Phase 3A of the Project for 2015 for each Participant. The Participant may request a reduction, but not an increase, in base requested capacity, which will be implemented by the NISP Enterprise so long as any increased costs of design, environmental studies, permitting or other matters are paid by the Participant. If a reduction in Participant's base requested capacity is made, the formula for allocation of costs among the participants shall be changed accordingly so that all participants bear a pro rata share of Phase 3A costs of the Project after the change based on their final base requested capacity. For purposes of the environmental analysis for the Project, the Participant's permitted capacity in the Project is 2600 acre-feet of water yield. In the event that Participant's base requested capacity is increased or decreased, Participant's permitted capacity shall be increased or decreased in the same percentage as the percentage increase or decrease of the base requested capacity.
3. Participant agrees to provide to the NISP Enterprise funds for its pro rata share of the anticipated 2015 costs necessary for Phase 3A of the Project. The NISP Enterprise estimates that Participant's pro rata share of the costs of Phase 3A of the Project is

\$104000 for 2015. Participant will pay the NISP Enterprise its pro rata share of Phase 3A 2014 costs on or before January 15, 2015. These estimated costs will not be increased or exceeded without the prior written approval of Participant. However, if Phase 3A of the Project cannot be completed within these estimated costs, the NISP Enterprise is not obligated to complete Phase 3A of the Project for the benefit of Participant unless sufficient additional pro rata funds as determined by the NISP Enterprise are provided by Participant. Any participant which joins the Project after this Agreement is executed and is not listed in Exhibit B will be charged the same cost per acre foot of Project yield for the Third Phase as all other participants. Participant funds that are not expended during Phase 3A will be rebated back to each participant pro rata based on each participant's contribution of funds to the Project in Phase 3A.

4. In the event that Participant fails to make the payment set forth above at the specified time, the NISP Enterprise shall have the right to terminate this Agreement and cease all work on the Project for the benefit of Participant. The NISP Enterprise shall give Participant thirty (30) days' advance written notice of its intention to terminate this Agreement and cease work on the Project for Participant's benefit under this paragraph. Participant shall have until the end of said 30-day period in which to make all past due payments in full in order to cure its default hereunder. Participant shall in any event be responsible for its pro rata share of the 2015 costs of Phase 3A of the Project actually incurred by the NISP Enterprise up to the date of termination of this Agreement.
5. The NISP Enterprise agrees to diligently pursue Phase 3A of the Project in good faith to the extent that funds therefor are provided by the Participant under this Agreement and by other participants under similar agreements. By entering into this Agreement and accepting payments from Participant, the NISP Enterprise does not obligate itself to, nor does the NISP Enterprise warrant, that it will proceed with the Project beyond Phase 3A or that it will construct or operate the Project. At the end of the Third Phase, the NISP Enterprise will determine after consultation with the participants whether to proceed with the Project. The NISP Enterprise agrees that, if the participants provide all required funding, if the NISP Enterprise has the ability, and if the Project is feasible and practical, it will pursue the construction and operation of the Project if requested to do so by sufficient participants to fully fund the Project. In the event that the NISP Enterprise decides not to proceed with the Project, it will so notify Participant and this Agreement will immediately and automatically terminate upon the giving of such notice.
6. In the event of termination of the Project, Participant shall not be entitled to any return of funds paid to the NISP Enterprise for the Project, unless payments by participants exceed the NISP Enterprise's costs, in which case a pro rata refund will be made. In the event of such termination, Participant shall be entitled to receive copies of any work products developed by the NISP Enterprise or its consultants on behalf of Participant, and NISP Enterprise shall convey to Participant, as a tenant in common with all other participants who have not been terminated under paragraph 4 above, a pro rata interest in all real and personal property acquired by the NISP Enterprise for the Project with funds provided under this Agreement or similar agreements with other participants.

7. Participant shall have the right to assign this Agreement and Participant's rights hereunder, with the written consent of the NISP Enterprise, which consent shall not be unreasonably withheld, to any person or entity that is eligible to receive water deliverable through the Project and that is financially able to perform this Agreement.
8. In the event that this Agreement is terminated for any reason, Participant shall not be entitled to any return of any funds paid to the NISP Enterprise for the Project, and the NISP Enterprise shall have no further obligations to Participant, except as provided in Paragraphs 3 and 6 above for those participants who have not been terminated under paragraph 4 above.
9. Notwithstanding any other provision of this Agreement to the contrary, the Participant's maximum financial obligation under this Agreement shall be the payment of \$104000 set forth in paragraph 3 above. The Participant shall have the right to terminate this Agreement at any time. In the event of such termination, each of the parties hereto shall be immediately released from all obligations recited herein as if this Agreement had not been entered into, except that Participant shall be entitled to a return of funds paid to the NISP Enterprise as provided in paragraph 8 above.
10. In the event that additional costs must be incurred for Phase 3A in 2015, the parties may amend this Agreement in writing to provide for further payment by Participant of Phase 3A costs for 2014. However, Participant is not obligated under this Agreement to pay any costs for Phase 3A beyond the costs stated in paragraph 3 above.
11. This Agreement is the entire agreement between the NISP Enterprise and Participant regarding participation in Phase 3A of the Project and shall be modified by the parties only by a duly executed written instrument approved by Participant and the NISP Enterprise's Board of Directors.
12. This Agreement is subject to approval by the NISP Enterprise's Board of Directors and shall become binding on the NISP Enterprise only upon such approval.

TOWN OF FREDERICK

By: _____

Name: _____

Title: _____

NORTHERN COLORADO WATER
CONSERVANCY DISTRICT, ACTING BY AND THROUGH THE NORTHERN
INTEGRATED SUPPLY PROJECT WATER ACTIVITY ENTERPRISE

By: _____

Name: _____

Title: _____

EXHIBIT A
DESCRIPTION OF PHASE 3A
NORTHERN INTEGRATED SUPPLY PROJECT

Phase 3A consists of a continuation of the permitting work associated with NISP. The work in 2015 will largely be efforts in support of the completion of the Supplemental Draft EIS, technical analyses required for the Final EIS, work in support of development of the Final EIS itself, mitigation development, preparation of the State of Colorado 401 Certification documents, and development of the State of Colorado Fish and Wildlife Mitigation Plan. Additionally, there will be work in support of the public information effort for NISP as well as overall Northern Water administration and legal support.

EXHIBIT B
PARTICIPANT YIELD AND COSTS
PHASE 3A

Participant Cost Allocation For 2015 Permitting \$1,600,000 Request

Participant	Project Yield (Acre-ft)	Percent of Project	Additional Budget Request
Central Weld Co. W.D.	3,500	8.75%	\$ 140,000
Dacono	1,000	2.50%	\$ 40,000
Firestone	1,300	3.25%	\$ 52,000
Frederick	2,600	6.50%	\$ 104,000
Eaton	1,300	3.25%	\$ 52,000
Erie	6,500	16.25%	\$ 260,000
Evans	1,600	4.00%	\$ 64,000
Fort Collins-Loveland. W.D.	3,000	7.50%	\$ 120,000
Fort Lupton	3,000	7.50%	\$ 120,000
Fort Morgan	3,600	9.00%	\$ 144,000
Lafayette	1,800	4.50%	\$ 72,000
Lefthand W.D.	4,900	12.25%	\$ 196,000
Morgan County Q.W.D.	1,300	3.25%	\$ 52,000
Severance	1,300	3.25%	\$ 52,000
Windsor	3,300	8.25%	\$ 132,000
Total	40,000	100.00%	\$ 1,600,000



TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tony Carey, Mayor

Laura Brown, Mayor Pro Tem
Rafer Burnham, Trustee
Fred Skates, Trustee

Amy Schiers, Trustee
Gavin Payne, Trustee
Donna Hudziak, Trustee

To Consider approval of a bid for New Coal Ridge Ditch Company Water Shares

Agenda Date: Town Board Meeting – January 13, 2015

Attachments: a. January 5, 2015 letter of bid for New Coal Ridge Water Shares

Finance Review:

Finance Director

Submitted by:

Richard Leffler, P.E.
Engineering & Utilities Director

Approved for Presentation:


Town Manager

☐ Quasi-Judicial

☐ Legislative

☒ Administrative

Summary Statement:

The attached letter specifies the Town's bid that was submitted for up to 29 shares of New Coal Ridge Ditch Company (Ditch Company) water.

Detail of Issue/Request:

The Ditch Company distributed a notice at its December 15, 2014 Annual Shareholders Meeting that it would be accepting bids for 29 shares of New Coal Ridge Water owned by the Ditch Company. The Town currently owns 8 shares of New Coal Ridge Water and has been interested in acquiring more of this water that is delivered through the Lower Boulder Ditch and that historically was used on land now within the Town of Frederick. Since there was no Frederick Town Board meeting between the December 15, 2014 Ditch Company notice and the January 5, 2015 deadline for sealed bids to be submitted, this bid was submitted contingent upon the Frederick Town Board approving the bid amount. The Ditch Company has not disclosed a specific date for when they will act on the sealed bids but have indicated it should be before the end of January. It is staff's opinion that the bid of \$3,800.00 per share

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would be a good value should the Town be successful in getting some or all of the 29 shares at this price.

Legal/Political Considerations:

The Town's water attorney would work with staff to complete the closing on these shares if the Town Board approves the bid amount and the Town is the high bidder on some or all shares.

Alternatives/Options:

Do not approve the proposed bid and direct staff to notify the Ditch Company that the bid must be withdrawn.

Financial Considerations:

There are no funds in the 2015 budget to cover this purchase. The Board would be asked to appropriate sufficient funds from the Water Shares account to cover the cost to purchase any shares from the Ditch Company.

Staff Recommendation:

Staff recommends that the Board approve the attached bid submittal of \$3,800.00 per share for up to 29 shares of the New Coal Ridge Ditch Company water.



401 LOCUST STREET • P.O. BOX 435 • FREDERICK, CO 80530-0435

PHONE: (720) 382-5500 • FAX: (720) 382-5520

WWW.FREDERICKCO.GOV

January 5, 2015

New Coal Ridge Ditch Company
c/o Board of Directors
10879 WCR 17
Longmont, CO 80504

Re: Bid for New Coal Ridge water shares

New Coal Ridge Ditch Company Board:

The Town of Frederick is hereby submitting a bid on the 29 shares of New Coal Ridge water per the Invitation to Bid that was distributed at the December 15, 2014 Annual Shareholder's Meeting. The Town's bid is in the amount of \$3,800.00 per share for all 29 shares. The Town would also bid \$3,800.00 per share for any lesser number of shares that might be available if there were a higher bid(s) submitted by another party for some of the shares.

There has been no Frederick Town Board meeting since the Invitation to Bid went out. This bid is therefore contingent upon the Frederick Town Board approving this bid amount at their next meeting scheduled for January 13, 2015. Please contact me if there are any questions or clarifications needed for this bid.

Sincerely,

Richard Leffler
Engineering & Utilities Director
720-382-5601
rleffler@frederickco.gov

cc: Matt LeCerf, Town Manager

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TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Laura Brown, Mayor Pro Tem
Rafer Burnham, Trustee
Fred Skates, Trustee

Tony Carey, Mayor

Amy Schiers, Trustee
Gavin Payne, Trustee
Donna Hudziak, Trustee

TO CONSIDER THE TENTH INTERIM AGREEMENT WITH THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT, FOR PARTICIPATION IN THE NORTHERN INTEGRATED SUPPLY PROJECT (NISP)

Agenda Date: Town Board Meeting – January 13, 2015

Attachments: a. Tenth Interim Agreement with the Northern Colorado Water
Conservancy District for Participation in NISP.

Finance Review:

Finance Director

Submitted by:

Richard Leffler, P.E.
Engineering & Utilities Director

Approved for Presentation:

Matthew J. Ziegler
Town Manager

☐ Quasi-Judicial

☐ Legislative

☒ Administrative

Summary Statement:

Approval of the attached Tenth Interim Agreement with the Northern Colorado Water Conservancy District (NCWCD or Northern Water) would commit the Town to continuing its participation in the Northern Integrated Supply Project (NISP).

Detail of Issue/Request:

On January 10, 2008, Frederick assumed Berthoud's 1,300 share interest in NISP and on December 8, 2009, Frederick formalized the transfer of 1,300 shares of Central Weld County Water District's (CWCWD) interest in NISP to the Town. Both of these actions were subject to the Fourth Interim Agreement with NCWCD. The Town Board has approved the Fifth through the Ninth Interim Agreement in subsequent years. The attached Tenth Interim Agreement with NCWCD specifies the amounts that each of the participants will be expected to pay to continue their participation in NISP. As specified in the attached agreement, Frederick's cost to continue to participate in Phase 3A for 2015 is

Built on What Matters.

\$104,000. Phase 3A consists of a continuation of the permitting work with the U.S. Army Corp of Engineers, and other activities associated with preparation of the Supplemental Draft EIS (SDEIS) for NISP. It also includes work in support of the public information effort for NISP and overall Northern Water administration and legal support. The current schedule has the SDEIS available to the public by the end of 2015 and then there will be another public review period. The next phases would be design and construction of improvements following the issuance of a permit by the U.S. Army Corp of Engineers. There could be a request for more funds in 2015 from Frederick and other participants if it is decided to acquire additional land or highway right-of-way for the project or if design costs come earlier in the schedule. There are adequate funds in the 2015 budget to cover the Town's \$104,000 costs for Phase 3A plus possible land acquisition and design costs.

NISP is a proposed water supply project being coordinated by NCWCD that would create 40,000 acre-feet of new water supplies to 15 water providers. This water is developed by constructing off-stream reservoirs to capture peak river flows without contributing to agricultural dry-up. Frederick is currently a participant in NISP in the amount of 2,600 shares which will yield 2,600 acre-feet of high quality water. A mixture of cash, bonds and/or low-interest loans are expected to finance the total project, which is now estimated at \$500 million, or about \$12,500 per acre foot of water. Colorado-Big Thompson (CBT) water is currently going for about \$26,000 to \$36,000 per acre foot, depending on market values and the yield assigned to a CBT unit. It should be noted that over half of the NISP water supplies are fully consumable, unlike CBT water. Studies by our water engineering consultants have indicated that we will ultimately need about 4,000 acre-feet of additional potable water supplies above what we now own and that the NISP project appears to be the best option that is available to the Town.

Legal/Political Considerations:

The attached agreement has been reviewed by the Town Attorney and is acceptable in form and content.

Alternatives/Options:

Not approve the attached agreement and search for other water supplies. The other current sources of high quality water identified by staff and consultants are CBT and Windy Gap. The current price for CBT water is now around \$25,000 per unit which is equivalent to about \$36,000 per acre-foot of average yield. This is much higher than the projected \$12,500 per acre-foot costs for NISP. There are limited supplies of CBT available and NCWCD regulations may limit the Town's ability to acquire large blocks of CBT. Staff has been unable to locate Windy Gap shares that are for sale and the cost is estimated to be well over \$20,000 per acre-foot. It is staff's opinion that NISP is the preferred option at this time.

Financial Considerations:

Water Funds are budgeted in 2015 for costs associated with continued participation in NISP.

Staff Recommendation:

Staff recommends that the Board approve the attached Tenth Interim Agreement with the Northern Colorado Water Conservancy District, Northern Integrated Supply Project Water Activity Enterprise, for continued Participation in the Northern Integrated Supply Project.

TENTH INTERIM AGREEMENT WITH THE
NORTHERN COLORADO WATER CONSERVANCY DISTRICT,
NORTHERN INTEGRATED SUPPLY PROJECT WATER ACTIVITY ENTERPRISE,
FOR PARTICIPATION IN THE
NORTHERN INTEGRATED SUPPLY PROJECT

This Agreement is made and entered into as of _____, 2015 by and between the Northern Colorado Water Conservancy District (a quasi-municipal entity and political subdivision of the State of Colorado), acting by and through its Northern Integrated Supply Project Water Activity Enterprise (a government-owned business within the meaning of Article X, Section 20(2)(d), of the Colorado Constitution, organized pursuant to C.R.S. §§ 37-45.1-101 et seq.), whose address is 220 Water Avenue, Berthoud, Colorado 80513 (the "NISP Enterprise"), and Town of Frederick, whose address is PO Box 435, Frederick, CO 80530-0435 ("Participant").

Recitals

- A. The NISP Enterprise is developing a water project (the "Project") for the purpose of developing a new reliable water supply for the beneficial use of the Participant and other entities.
- B. Overall Project costs will be divided among the entities that participate in the Project.
- C. The First Phase of the Project consisted of preliminary studies to evaluate potential Poudre reservoir sites and the South Platte Water Conservation Project. The First Phase has been accomplished and there appear to be potential project configurations that may serve the needs of the Project.
- D. The Second Phase of the Project consisted of additional reservoir site evaluations, alternatives analysis, environmental studies, financial analyses, and related work. The Second Phase has been completed and the participants have selected alternatives that may serve the needs of the Project.
- E. The NISP Enterprise has commenced the Third Phase of the Project. The Third Phase, Years 1 and 2 (2004 and 2005), consisted of agency consultation, commencement of permitting with the U.S. Army Corps of Engineers and other agencies, commencement of compliance with the National Environmental Policy Act and other requirements for federal permitting, commencement of field work and analysis for permitting, modeling, and other activities related to designing and permitting the Project.
- F. The Third Phase, Year 3 through Year 6 (2006, 2007, 2008, and 2009), consisted of continuation of agency consultation, permitting with the U.S. Army Corps of Engineers and other agencies, compliance with the National Environmental Policy Act and other requirements for federal permitting, field work and analysis for permitting, modeling, and other activities related to designing and permitting the Project.

- G. The Third Phase, Years 7 through 12 (hereinafter referred to as "Phase 3A"), will consist of further agency consultation, permitting with the U.S. Army Corps of Engineers and other agencies, compliance with the National Environmental Policy Act and other requirements for federal permitting, field work and analysis for permitting, modeling, and other activities related to designing and permitting the Project.
- H. It is necessary that the NISP Enterprise pursue Phase 3A of the Project at this time in order to be able to complete the Project on the time schedule desired by the participants.
- I. Continuation and completion of the Third Phase of the Project on behalf of the participants will require continued funding from the participants.

Agreement

1. Participant agrees to participate in Phase 3A of the Project to continue agency consultation, permitting work with the U.S. Army Corps of Engineers and other agencies, compliance with the National Environmental Policy Act and other requirements for federal permitting, field work and analysis for permitting, modeling, and other activities related to designing and permitting the Project, under and pursuant to the terms and conditions of this Agreement. Participant acknowledges that it shares a common interest in development of the Project and that privileged material may be shared with the Participant from time to time. A description of Phase 3A is included in Exhibit A. Participation in Phase 3A of the Project in no way obligates Participant to subsequent phases of the Project or to continue involvement in the Project in any manner.
2. For the purposes of cost allocation in Phase 3A, the cost is based upon the Participant's base requested capacity divided by the total requested base Project yield. The Participant's initial base requested capacity in the Project is 2600 acre-feet of water yield. Attached hereto as Exhibit B is a table showing the currently anticipated permitted capacity in the Project and the pro rata share of the costs of Phase 3A of the Project for 2015 for each Participant. The Participant may request a reduction, but not an increase, in base requested capacity, which will be implemented by the NISP Enterprise so long as any increased costs of design, environmental studies, permitting or other matters are paid by the Participant. If a reduction in Participant's base requested capacity is made, the formula for allocation of costs among the participants shall be changed accordingly so that all participants bear a pro rata share of Phase 3A costs of the Project after the change based on their final base requested capacity. For purposes of the environmental analysis for the Project, the Participant's permitted capacity in the Project is 2600 acre-feet of water yield. In the event that Participant's base requested capacity is increased or decreased, Participant's permitted capacity shall be increased or decreased in the same percentage as the percentage increase or decrease of the base requested capacity.
3. Participant agrees to provide to the NISP Enterprise funds for its pro rata share of the anticipated 2015 costs necessary for Phase 3A of the Project. The NISP Enterprise estimates that Participant's pro rata share of the costs of Phase 3A of the Project is

\$104000 for 2015. Participant will pay the NISP Enterprise its pro rata share of Phase 3A 2014 costs on or before January 15, 2015. These estimated costs will not be increased or exceeded without the prior written approval of Participant. However, if Phase 3A of the Project cannot be completed within these estimated costs, the NISP Enterprise is not obligated to complete Phase 3A of the Project for the benefit of Participant unless sufficient additional pro rata funds as determined by the NISP Enterprise are provided by Participant. Any participant which joins the Project after this Agreement is executed and is not listed in Exhibit B will be charged the same cost per acre foot of Project yield for the Third Phase as all other participants. Participant funds that are not expended during Phase 3A will be rebated back to each participant pro rata based on each participant's contribution of funds to the Project in Phase 3A.

4. In the event that Participant fails to make the payment set forth above at the specified time, the NISP Enterprise shall have the right to terminate this Agreement and cease all work on the Project for the benefit of Participant. The NISP Enterprise shall give Participant thirty (30) days' advance written notice of its intention to terminate this Agreement and cease work on the Project for Participant's benefit under this paragraph. Participant shall have until the end of said 30-day period in which to make all past due payments in full in order to cure its default hereunder. Participant shall in any event be responsible for its pro rata share of the 2015 costs of Phase 3A of the Project actually incurred by the NISP Enterprise up to the date of termination of this Agreement.
5. The NISP Enterprise agrees to diligently pursue Phase 3A of the Project in good faith to the extent that funds therefor are provided by the Participant under this Agreement and by other participants under similar agreements. By entering into this Agreement and accepting payments from Participant, the NISP Enterprise does not obligate itself to, nor does the NISP Enterprise warrant, that it will proceed with the Project beyond Phase 3A or that it will construct or operate the Project. At the end of the Third Phase, the NISP Enterprise will determine after consultation with the participants whether to proceed with the Project. The NISP Enterprise agrees that, if the participants provide all required funding, if the NISP Enterprise has the ability, and if the Project is feasible and practical, it will pursue the construction and operation of the Project if requested to do so by sufficient participants to fully fund the Project. In the event that the NISP Enterprise decides not to proceed with the Project, it will so notify Participant and this Agreement will immediately and automatically terminate upon the giving of such notice.
6. In the event of termination of the Project, Participant shall not be entitled to any return of funds paid to the NISP Enterprise for the Project, unless payments by participants exceed the NISP Enterprise's costs, in which case a pro rata refund will be made. In the event of such termination, Participant shall be entitled to receive copies of any work products developed by the NISP Enterprise or its consultants on behalf of Participant, and NISP Enterprise shall convey to Participant, as a tenant in common with all other participants who have not been terminated under paragraph 4 above, a pro rata interest in all real and personal property acquired by the NISP Enterprise for the Project with funds provided under this Agreement or similar agreements with other participants.

7. Participant shall have the right to assign this Agreement and Participant's rights hereunder, with the written consent of the NISP Enterprise, which consent shall not be unreasonably withheld, to any person or entity that is eligible to receive water deliverable through the Project and that is financially able to perform this Agreement.
8. In the event that this Agreement is terminated for any reason, Participant shall not be entitled to any return of any funds paid to the NISP Enterprise for the Project, and the NISP Enterprise shall have no further obligations to Participant, except as provided in Paragraphs 3 and 6 above for those participants who have not been terminated under paragraph 4 above.
9. Notwithstanding any other provision of this Agreement to the contrary, the Participant's maximum financial obligation under this Agreement shall be the payment of \$104000 set forth in paragraph 3 above. The Participant shall have the right to terminate this Agreement at any time. In the event of such termination, each of the parties hereto shall be immediately released from all obligations recited herein as if this Agreement had not been entered into, except that Participant shall be entitled to a return of funds paid to the NISP Enterprise as provided in paragraph 8 above.
10. In the event that additional costs must be incurred for Phase 3A in 2015, the parties may amend this Agreement in writing to provide for further payment by Participant of Phase 3A costs for 2014. However, Participant is not obligated under this Agreement to pay any costs for Phase 3A beyond the costs stated in paragraph 3 above.
11. This Agreement is the entire agreement between the NISP Enterprise and Participant regarding participation in Phase 3A of the Project and shall be modified by the parties only by a duly executed written instrument approved by Participant and the NISP Enterprise's Board of Directors.
12. This Agreement is subject to approval by the NISP Enterprise's Board of Directors and shall become binding on the NISP Enterprise only upon such approval.

TOWN OF FREDERICK

By: _____

Name: _____

Title: _____

NORTHERN COLORADO WATER
CONSERVANCY DISTRICT, ACTING BY AND THROUGH THE NORTHERN
INTEGRATED SUPPLY PROJECT WATER ACTIVITY ENTERPRISE

By: _____

Name: _____

Title: _____

EXHIBIT A
DESCRIPTION OF PHASE 3A
NORTHERN INTEGRATED SUPPLY PROJECT

Phase 3A consists of a continuation of the permitting work associated with NISP. The work in 2015 will largely be efforts in support of the completion of the Supplemental Draft EIS, technical analyses required for the Final EIS, work in support of development of the Final EIS itself, mitigation development, preparation of the State of Colorado 401 Certification documents, and development of the State of Colorado Fish and Wildlife Mitigation Plan. Additionally, there will be work in support of the public information effort for NISP as well as overall Northern Water administration and legal support.

EXHIBIT B
PARTICIPANT YIELD AND COSTS
PHASE 3A

Participant Cost Allocation For 2015 Permitting \$1,600,000 Request

Participant	Project Yield (Acre-ft)	Percent of Project	Additional Budget Request
Central Weld Co. W.D.	3,500	8.75%	\$ 140,000
Dacono	1,000	2.50%	\$ 40,000
Firestone	1,300	3.25%	\$ 52,000
Frederick	2,600	6.50%	\$ 104,000
Eaton	1,300	3.25%	\$ 52,000
Erie	6,500	16.25%	\$ 260,000
Evans	1,600	4.00%	\$ 64,000
Fort Collins-Loveland. W.D.	3,000	7.50%	\$ 120,000
Fort Lupton	3,000	7.50%	\$ 120,000
Fort Morgan	3,600	9.00%	\$ 144,000
Lafayette	1,800	4.50%	\$ 72,000
Lefthand W.D.	4,900	12.25%	\$ 196,000
Morgan County Q.W.D.	1,300	3.25%	\$ 52,000
Severance	1,300	3.25%	\$ 52,000
Windsor	3,300	8.25%	\$ 132,000
Total	40,000	100.00%	\$ 1,600,000
